

FILE NAME: Mundet Cork (MCK)

DATE: 1955

DOC#: MCK141

DOCUMENT DESCRIPTION: WC Claim of Swartout, Pt. 3

COMMISSION OFFICES:
FOR NORTHERN CALIFORNIA
(EXCEPT SACRAMENTO COUNTY)
965 MISSION STREET
SAN FRANCISCO 3
FOR SACRAMENTO COUNTY ONLY
ROOM 200, 631 J STREET
SACRAMENTO
FOR SOUTHERN CALIFORNIA
(EXCEPT SAN DIEGO COUNTY)
801 STATE BUILDING
LOS ANGELES 12
FOR SAN DIEGO COUNTY ONLY
1321 FOURTH AVENUE
SAN DIEGO 1

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL ACCIDENT COMMISSION

APPLICATION FOR HEARING

Case No. 568F 169-171
Filed: 12-30-55

DO NOT WRITE IN
THIS SPACE

ENTERED IN DOCKET
BY _____

Employee's Name John E. Swartout

Social Security No. 472-10-9896

Name of Employer Various

Name of Insurance Carrier See attached list

Employee's Address 3000 Merrywood Drive

Sacramento 17, California

Employer's Address California Compaines

Insurance Carrier's Address _____

Employee's name John E. Swartout

Employee's date of birth September 5, 1889

Date of your injury Exposure over a long period
1 of time
Place where injury occurred California

Employee's occupation at time of injury ASBESTOS Insulation

When did you leave work as a result of this injury? January 6, 1955

How did injury occur? Working with asbestos

What part or parts of your body were injured? Asbestosis

When did you return to work? Still off

Full or part time work and at what wage? _____

Your wages or salary (before deductions) \$ _____ per hour or 3.15 per week or \$ _____ per month
If paid on hourly rate, how many hours did you work per week? 40 hour week, plus overtime sometimes
Did you receive any of the following: Board? Yes ☒ No ☐; Lodging? Yes ☐ No ☐; Tips? Yes ☐ No ☒; Other advantages? Yes ☐ No ☐
State their weekly value \$ _____ (Only on some jobs)

Have you been paid any compensation? Yes ☒ No ☐. How much \$ 910.00 Weekly rate of payments \$ 35.00

Date when last payment was made Up to Sept. 13, 1955

Has the employer or the insurance carrier furnished you with any medical treatment? Yes ☐ No ☐.

Date when last treatment was given _____, 19____

List names of all doctors who have treated you and who were furnished by the employer or insurance carrier _____

Have you obtained any medical treatment at your own expense? Yes ☒ No ☐.

List names of all doctors who have treated you at your own expense Dr. Pontier with Clinic at Springvale Hospital; Dr. Webster, Sacramento Hospital; Dr. Allan Mon, Sacto,

Are you claiming any of the following benefits? (Answer Yes or No):

(a) Temporary disability payment Yes (b) Permanent disability payment Yes
(c) Further medical treatment Yes (d) Cost of your medical expense Yes
(e) List other benefits claimed and not mentioned above _____

Have you ever before filed a claim with this Commission? Yes ☐ No ☐. If so, when was it filed? _____

DATE

SMITH & PARRISH

REPRESENTATIVE OR ATTORNEY FOR APPLICANT

1616 Financial Center Bldg.
Oakland, Calif.

/s/ John E. Swartout

SIGNATURE OF APPLICANT

Date 12/28, 1955

GLENCOURT 2-2-2000

NOTE—HEARING: After this application has been filed with the Industrial Accident Commission the parties will be notified in writing of the time and place of hearing. Either party may be represented in person, by attorney, or other agent.

ANSWER: The defendant is expected to file an answer within 10 days after service of a copy of this application, using the form furnished for that purpose. If a defendant employer is insured and the insurance carrier is properly named in the application, no answer need be filed by the employer, as that will be done by the carrier; but if the insurance carrier is not named, then the employer should notify the carrier immediately so the proper answer can be filed.

DATE OF SERVICE

SERVICE ON

ON OFFICES:

SAN FRANCISCO
SACRAMENTO COUNTY
MISSION STREET
SAN FRANCISCO 3

SACRAMENTO COUNTY ONLY
ROOM 200, 631 J STREET
SACRAMENTO

FOR SOUTHERN CALIFORNIA
(EXCEPT SAN DIEGO COUNTY)
501 STATE BUILDING
LOS ANGELES 12

FOR SAN DIEGO COUNTY ONLY
1521 FOURTH AVENUE
SAN DIEGO 1

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL ACCIDENT COMMISSION

APPLICATION FOR HEARING
DEATH CLAIM

Case No. 169-171
Filed: 6-13-56

DO NOT WRITE IN
THIS SPACE

ENTERED IN DOCKET
BY _____

Names of Applicants:

Mrs. John E. Swartout

Addresses of Applicants:

3000 Merrywood Drive

Sacramento 21, California

Name of Employer: Listed on separate sheet
as filed December 28, 1955

Address of Employer: _____

Name of Insurance Carrier: See attached list as
per December 28, 1955

Address of Insurance Carrier: _____

Name of Deceased Employee: John E. Swartout

Date of Employee's Birth September 5, 1889

Date of employee's injury _____

Date of employee's death May 30, 1956

Employee's occupation? Asbestos worker

Place where injury occurred: Various jobs

What work was employee doing at time of injury? Asbestos insulation work

Was any medical or hospital expense involved? Yes ☒ No ☐ Amount paid \$ _____

Who paid it? _____

Was any compensation paid to the employee after his injury? Yes ☐ No ☒ If so, how much \$ _____

List names of all doctors who treated the employee after his injury Dr. W.B. Parkinson, Porterville, Calif.

Clinic of doctors (Specialists on lungs) at Springville, Calif. Dr. C. Webster

Has burial expense been paid? Yes ☐ No ☐ If so, how much \$ Dr. Robert M. Harris; Dr. Allan Moe

List all those who claim to have been dependents of the employee at time of injury

NAME	AGE (IF UNDER 21)	RELATIONSHIP TO THE EMPLOYEE	ADDRESS
<u>Mrs. John E. Swartout</u>		<u>Wife</u>	<u>3000 Merrywood Drive Sacramento 21, Calif.</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

IMPORTANT—If any applicant is under 21 years of age, it will be necessary to file Petition for Appointment of Guardian ad Litem.
Forms for this purpose may be obtained at the offices of the Industrial Accident Commission.

Reason for filing this application: _____

SMITH & PARRISH

REPRESENTATIVE OR ATTORNEY FOR APPLICANTS

Attorneys At Law

501 Financial Center Bldg.

Oakland Calif.

Glencourt 2-2---

TELEPHONE NUMBER

/s/ Mrs. John E. Swartout

SIGNATURES OF APPLICANTS

Date June 13, 1956

NOTE—HEARING: After this application has been filed with the Industrial Accident Commission the parties will be notified in writing of the time and place of hearing. Either party may be represented in person, by attorney, or other agent.

ANSWER: The defendant is expected to file an answer within 10 days after service of a copy of this application, using the form furnished for that purpose. If a defendant employer is insured and the insurance carrier is properly named in the application, no answer need be filed by the employer, as that will be done by the carrier; but if the insurance carrier is not named, then the employer should notify the carrier immediately so the proper answer can be filed.

DATE OF SERVICE

SERVICE ON

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF
CALIFORNIA

CLAIM NO. 55 SF 169-171

JOHN E. SWARTOUT,

Applicant,

vs.

MUNDET CORK CORP.; HARRY A. DUTTON, INC.;
DUTTON ASBESTOS CO.; DUTTON ASBESTOS &
SUPPLY CO.; WESTERN ASBESTOS CO.; BAY CITY
ASBESTOS CO., Ltd.; CORK INSULATION CO.,
Inc.; WESTERN FIBROUS GLASS PRODUCTS CO.;
GENERAL INSULATION & RUBBER CORPORATION;
ARMSTRONG CORK CO.; JOHNS MANVILLE SALES
CORPORATION; C. C. MOORE & CO.; J. T.
THORPE & SON, INC.; M. R. CARPENTER,
AETNA INSURANCE COMPANY; STATE COMPENSA-
TION INSURANCE FUND; INDUSTRIAL INDEMNITY
EXCHANGE; INDUSTRIAL INDEMNITY COM-
PANY; PACIFIC INDEMNITY COMPANY; LIBERTY
MUTUAL INSURANCE COMPANY; EMPLOYERS MUTUAL
INSURANCE COMPANY; TRAVELERS INSURANCE COM-
PANY; STANDARD ACCIDENT INSURANCE COMPANY,
and PACIFIC EMPLOYERS INSURANCE COMPANY,

Defendants.

ORDER JOINING
PARTIES
DEFENDANT

Mailed from San Francisco Office

JUN 22 1956

Industrial Accident Commission
State of California

GOOD CAUSE APPEARING THEREFOR:

IT IS ORDERED that the Mundet Cork Corp., Harry
A. Dutton, Inc.; Dutton Asbestos Co., Dutton Asbestos & Supply
Co., Western Asbestos Co., Bay City Asbestos Co., Ltd.; Cork
Insulation Co., Inc.; Western Fibrous Glass Products Co.,
General Insulation & Rubber Corporation, Armstrong Cork Co.,
Johns Manville Sales Corporation, C. C. Moore and Co, J. T.
Thorpe & Son, Inc.; M. R. Carpenter, Aetna Insurance Company,
State Compensation Insurance Fund, Industrial Indemnity Ex-
change, Industrial Indemnity Company, Pacific Indemnity Company,
Liberty Mutual Insurance Company, Employers Mutual Insurance
Company, Travelers Insurance Company, Standard Accident In-
surance Company and Pacific Employers Insurance Company, be
and they are hereby joined as parties defendant.

R. O. Furvis, Referee

hg

DATED AT SAN FRANCISCO
CALIFORNIA

JUN 22 1956

RCS

State of California

INDUSTRIAL ACCIDENT COMMISSION

San Francisco

965 Mission Street

JUN 26 1956 WLH

(Mrs.)

JOHN E. SWARTOUT,

Applicant

vs

MUNDET CORK CORPORATION, et al,

Defendant

Claim No. 55SF 169-171

NOTICE OF HEARING
OF APPLICATION
FOR ADJUSTMENT
OF CLAIM

You are hereby notified that an application to adjust a claim for compensation (a copy of which is attached hereto) has been filed with the Industrial Accident Commission of the State of California. You are further notified that said application has been set for hearing at

Room 206, 1531 Webster Street
Oakland
August 15, 1956
9:00 a.m.
All Morning
All issues

and that at said time and place the Industrial Accident Commission of the State of California will proceed to hear and dispose of the said application in the manner prescribed by law.

Note: The parties are expected to submit all issues in controversy for decision at this hearing; therefore, all necessary witnesses, evidence, documents, medical reports, payrolls, and other essential proof must be available and ready for submission at the hearing.

Dated:

INDUSTRIAL ACCIDENT COMMISSION

The undersigned certifies that as an employee of the Industrial Accident Commission she served the foregoing notice on the parties hereinafter mentioned, at the time set opposite their respective names, by depositing a copy of said notice attached to a copy of the application therein mentioned, in a sealed envelope in the United States mail on said day, at San Francisco, California, with the postage thereon fully prepaid, and addressed to the said parties at their last known places of business or residence, as follows, to wit:

(See attached sheet for Service)

FORM 35-S(new 4-56

Signature.....

JUN 22 1956

DATE OF SERVICE

NAME OF PARTIES SERVED

(Mrs.)
 John E. Swartout, 3000 Merrywood Drive, Sacramento, Calif.
 Smith & Parrish, 501 Financial Center Bldg., Oakland, Calif.
 Mandet Cork Corp., 7101 Tonnelle Ave., North Bergen, N. J.
 Harry A. Dutton, Inc., 532 Natoma St., S.F., Calif.
 Dutton Asbestos Co., 532 Natoma St., S.F., Calif.
 Dutton Asbestos & Supply Co., 532 Natoma St., S.F., Calif.
 Western Asbestos Co., 675 Townsend St., S.F., Calif.
 Bay City Asbestos Co., Ltd., 251 - 5th Ave., Oakland, Calif.
 Cork Insulation Co., Inc., 730 - 5th Ave., N. Y.
 Western Fibrous Glass Prod. Co., 739 Bryant St., S.F., Calif.
 General Insulation & Rubber Corp., 1247 Main St., El Centro, Calif.
 Armstrong Cork Co., Lancaster, Penn.
 Johns Manville Sales Corp., 22 East 40th St., N.Y.
 C. C. Moore & Co., 450 Mission St., S.F., Calif.
 J. T. Thorpe & Son, Inc., 1351 Ocean Avenue, Emeryville, Calif.
 M. R. Carpenter, 907 Front St., Sacramento, Calif.
 S. R. Dutton Company, 532 Natoma St., S.F., Calif.
 Bay Cities Asbestos Co., 251-5th Ave., Oakland, Calif.
 Western Fiberglass Supply, 739 Bryant St., S.F., Calif.
 General Insulation Co., S.F., Calif.
 The Asbestos & Magnesia Materials Co., Chicago, Ill.
 Asbestos Supply Co. of Seattle, Fairbanks, Alaska
 Phillip Care Mfg., Co., Cincinnati, Ohio
 Tacoma Asbestos Co. of Tacoma, Anchorage, Alaska
 Jamar-Olmen Co. of Chicago, Terre Haute, Indiana
 Johns-Manville, Trenton, New Jersey
 Insulation Services of Minn., Terre Haute, Indiana
 Hunter Manufacturing Corp. of Bristol, Pa, Tucson, Arizona
 Johns Manville, Pittsburg, Calif.
 Pillsbury, Madison & Sutro, 225 Bush St., S.F., Calif.
 Aetna Insurance Co., 220 Montgomery St., S.F., Calif.
 State Compensation Insurance Fund, Personal Service
 Industrial Indemnity Exchange, 155 Sansome St., S.F., Calif.
 Industrial Indemnity Co., 350 Sansome St., S.F., Calif.
 Pacific Indemnity Co., 114 Sansome St., S.F., Calif.
 Liberty Mutual Insurance Co., 216 Pine St., S.F., Calif.
 Employers Mutual Liab. Ins. Co. of Wisconsin, 114 Sansome St., S.F., Calif.
 Travelers Ins. Co., 315 Montgomery St., S.F., Calif.
 Standard Accident Ins. Co., 417 Montgomery St., S.F., Calif.
 Pacific Employers Ins. Co., 505 Montgomery St., S.F., Calif.
 Pacific Employers Ins. Co., 3770 Piedmont Ave., Oakland, Calif.
 Keith, Creede & Sedgwick, 100 Bush St., S.F., Calif.
 Leonard, Hanna & Brophy, 100 Bush St., S.F., Calif.

he

114, CHANCERY COURT
Address

NOTE: A COPY of this Answer shall be served on all adverse parties, or their attorneys, and a notation of such service and the parties served must be made hereon.

Parties served: SEE ATTACHED SHEET

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

ANSWER

In Re: I.A.C. No. 55 SF 169-171

JOHN E. SWARTOUT

vs MUNDET CORK CORP., etal

In answer to the application, we make allegations and we raise the issues which are checked below. Should other issues not now known to be proper and necessary develop later, we reserve the right to raise such additional issues in accordance with the provisions of law and the rules of the Commission.

☒ Employment

☒ Earnings at the time of injury

☒ Nature and extent of disability

☒ Occupation of claimant

☒ Liability for medical treatment

☒ Insurance coverage (Employer has been notified to appear and defend)

☒ Injury arising out of and occurring in the course of employment

☒ FAILURE TO SERVE MEDICAL

☒ Statute of limitations

☒ LACK OF NOTICE & PREJUDICE THEREBY

☐ Medical reports have been served as listed in covering letter.

Disability indemnity has been paid as follows:

Temporary:
Beginning _____ to and including _____; Total \$ _____ @ \$ _____ a week

Permanent:
Beginning _____ to and including _____; Total \$ _____ @ \$ _____ a week

We believe that the presentation of our evidence will require a minimum of ONE HOUR

Estimated number of witnesses, if available _____

PACIFIC INDEMNITY COMPANY

Defendant

L. W. Likens

L. W. LIKENS Attorneys for defendant

114 SANSOME STREET, SAN FRANCISCO, CALIF.

Address

NOTE: A COPY of this Answer shall be served on all adverse parties, or their attorneys, and a notation of such service and the parties served must be made hereon.

Parties served: SEE ATTACHED SHEET

NAMES OF PARTIES SERVED

DATE OF SERVICE

JULY 13, 1956

MRS. JOHN E. SWARTOUT - 3000 Merrywood Drive, Sacramento, California
 SMITH & PARRISH - 501 Financial Center Bldg.
 MUNDET CORK CORP. - 7101 Tonnelle Avenue, North Bergen, New Jersey
 HARRY A. DUTTON, INC. - 532 Natoma Street, San Francisco, California
 DUTTON ASBESTOS CO. - 532 Natoma Street, San Francisco, California
 DUTTON ASBESTOS & SUPPLY CO. - 532 Natoma Street, San Francisco, California
 WESTERN ASBESTOS CO. - 675 Townsend Street, San Francisco, California
 BAY CITY ASBESTOS CO., LTD. - 251 - 5th Avenue, Oakland, California
 CORK INSULATION CO., INC. - 730 - 5th Avenue, New York, New York
 WESTERN FIBROUS GLASS PROD. CO. - 739 Bryant Street, San Francisco, California
 GENERAL INSULATION CO.
 GENERAL INSULATION & RUBBER CORP. - 1247 Main Street, El Centro, California
 ARMSTRONG CORK CO. - Lancaster, Pennsylvania
 JOHNS MANVILLE SALES CORP. - 22 East 40th Street, New York, New York
 G. C. MOORE & CO. - 450 Mission Street, San Francisco, California
 J. T. THORPE & SON, INC. - 1351 Ocean Avenue, Emeryville, California
 M. R. CARPENTER - 907 Front Street, Sacramento, California
 S. R. DUTTON COMPANY - 532 Natoma Street, San Francisco, California
 BAY CITIES ASBESTOS CO. - 251-5th Avenue, Oakland, California
 WESTERN FIBERGLASS SUPPLY - 739 Bryant Street, San Francisco, California
 THE ASBESTOS & MAGNESIA MATERIALS CO. - Chicago, Illinois
 ASBESTOS SUPPLY CO. OF SEATTLE - Fairbanks
 PHILLIP CARE MFG. CO. - Cincinnati, Ohio
 TACOMA ASBESTOS CO. OF TACOMA - Anchorage, Alaska
 JAMAR-OLMEN CO. OF CHICAGO - Terre Haute, Indiana
 JOHNS-MANVILLE - Trenton, New Jersey
 INSULATION SERVICES OF MINN. - Terre Haute, Indiana
 HUNTER MANUFACTURING CORP. OF BRISTOL, PA. - Tuscon, Arizona
 JOHNS MANVILLE - Pittsburg, California
 PILLSBURY, MADISON & SUTRO - 225 Bush Street, San Francisco, California
 AETNA INSURANCE CO. - 220 Montgomery Street, San Francisco, California
 STATE COMPENSATION INSURANCE FUND
 INDUSTRIAL INDEMNITY EXCHANGE - 155 Sansome Street, San Francisco, California
 INDUSTRIAL INDEMNITY CO. - 350 Sansome Street, San Francisco, California
 LIBERTY MUTUAL INSURANCE CO. - 216 Pine Street, San Francisco, California
 EMPLOYERS MUTUAL LIABILITY INS. CO. OF WISCONSIN - 114 Sansome Street, San Francisco, Cal
 TRAVELERS INSURANCE CO. - 315 Montgomery Street, San Francisco, California
 STANDARD ACCIDENT INSURANCE CO. - 417 Montgomery Street, San Francisco, California
 PACIFIC EMPLOYERS INSURANCE CO. - 505 Montgomery Street, San Francisco, California
 PACIFIC EMPLOYERS INS. CO. - 3770 Piedmont Avenue, Oakland, California
 KEITH, CREEDE & SEDGWICK - 100 Bush Street, San Francisco, California
 LEONARD, HANNA & BROPHY - 100 Bush Street, San Francisco, California

8-5
BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

BERGIT A. SMARTTOUT,

OCT 30 1956 W H

Applicant,

vs.
MUNDET CORP.; HARRY A. DUTTON, INC.;
DUTTON ASBESTOS CO.; DUTTON ASBESTOS &
SUPPLY CO.; WESTERN ASBESTOS CO., et al.

*
* CLAIM NO. 55 SF 169-171
*

* NOTICE OF TIME
* AND PLACE OF
* FURTHER HEARING
*
*

Defendants.

NOTICE TO ALL PARTIES

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

ROOM 206, 1531 WEBSTER STREET

OAKLAND, CALIFORNIA,

DECEMBER 6, 1956

9:30 o'clock a.m.

INDUSTRIAL ACCIDENT COMMISSION

Dated at:

NOTE: CONTINUANCES AND FURTHER HEARINGS ARE NOT FAVORED.

SERVICE UPON : MCP OCT 21 1956

See attached sheet for service

SERVICE UPON; 10/25/56--McP

Mergit A. Swartout, 3810 Arden Way, Sacramento, Calif.
Smith & Parrish, 501 Financial Center Bldg., Oakland

Mundet Cork Corp., 7101 Tonnelle Ave., North Bergen, New Jersey
Harron. Dutton, Inc., 532 Natoma St., S. F.
Dutton Asbestos & Supply Co., 532 Natoma St., S. F.
S. R. Dutton Co., 532 Natoma St., S. F.
Western Asbestos Co., 675 Townsend St., S. F.
Bay City Asbestos Co., Ltd., 251 5th Ave., Oakland
Cork Insulation Co., Inc., 730 5th Ave., N. Y.
Western Fiber Glass Co., 739 Bryant St., S. F.
General Insulation & Rubber Corp., 1247 Main St., El Centro, Calif.
✓ Armstrong Cork Co., Lancaster, Penn.
Johns Manville Sales Corp., 22 East 40th St., N. Y.
Johns Manville, Pittsburg, Calif.
C. C. Moore & Co., 450 Mission St., S. F.
J. T. Thorne & Son, Inc., 1351 Ocean Ave., Emeryville, Cal.
M. A. Carpenter, 907 Front St., Sacramento, Calif.
Phillip Care Mfg. Co., c/o Gen. Acc. Fire & Life Assur. Co., Pacific
Mutual Bldg., S. F.

Pillsbury, Madison & Sutro, 225 Bush St., S. F.
Hadsell, Murman & Bishop, 405 Montgomery St., S. F.

Aetna Ins. Co., 220 Montgomery St., S. F.
State Fund, Personal Service
Industrial Indem. Co., 350 Sansome St., S. F.
Industrial Indem. Exchange, 135 Sansome St., S. F.
Pacific Indemnity Co., 114 Sansome St., S. F.
Liberty Mutual Ins. Co., 216 Pine St., S. F.
✓ Employers Mutual Liab. Ins. Co., of Wis., 114 Sansome St., S. F.
✓ Travelers Ins. Co., 315 Montgomery St., S. F.
✓ Standard Accident Ins. Co., 417 Montgomery St., S. F.
Pacific Exp. Ins. Co., 505 Montgomery St., S. F.
Pacific Employers Ins. Co., 3770 Piedmont Ave., Oakland
General Accident, Fire & Life Assurance Corp., Pacific Mutual Bldg.,
San Francisco

Keith, Creede & Sedgwick, 100 Bush St., S. F.
Leonard, Hanna & Brophy, 100 Bush St., S. F.
Henry C. Sanford, 714 Hobart Bldg., S. F.
Mullen & Filippi, 315 Montgomery St., S. F.

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

BERGIT A. SWARTZOUT,

Applicant

MUNDET CORK CORP.,
 DUTTON ASBESTOS CO.,
 & SUPPLY CO.,
 et al.,

Defendants

CLAIM NO. 55 S.F. 169-171

NOTICE OF CHANGE IN
 PLACE OF HEARING

NOTICE TO ALL PARTIES

You are hereby notified that the place for the hearing in the above entitled action has been changed to and will be held at

Room 510, 577 - 14th Street (Corner of Jefferson), Oakland
 on the same date and at the same time as stated in the Notice previously issued.

11/12/56
 DATED at San Francisco, California,
 November 7, 1956

INDUSTRIAL ACCIDENT COMMISSION

SERVICE UPON: Same as in last notice of hearing. MCP

1455 10. 6.

1125

Chambers

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. 55 SF 169-171

BERGIT A. SWARTOUT,

Applicant,

VS.

MAR 10 1958 WLH

FINDINGS AND AWARD

D/A - 1/10/58

MUNDET CORK CORP.; HARRY A. DUTTON, INC.;
DUTTON ASBESTOS CO.; DUTTON ASBESTOS &
SUPPLY CO.; WESTERN ASBESTOS CO.; BAY
CITY ASBESTOS CO., LTD.; CORK INSULA-
TION CO., INC.; WESTERN FIBER GLASS COM-
PANY; GENERAL INSULATION & RUBBER COR-
PORATION; ARMSTRONG CORK CO.; JOHNS
MANVILLE SALES CORPORATION; C. C. MOORE
& CO.; J. T. THORPE & SON, INC.; M. R.
CARPENTER; AETNA INSURANCE COMPANY;
STATE COMPENSATION INSURANCE FUND;
INDUSTRIAL INDEMNITY EXCHANGE; INDUS-
TRIAL INDEMNITY COMPANY; LIBERTY MUTUAL
INSURANCE COMPANY; TRAVELERS INSURANCE
COMPANY; STANDARD ACCIDENT INSURANCE
COMPANY, and PACIFIC EMPLOYERS INSUR-
ANCE COMPANY,

Defendants.

An application for adjustment of claim for com-
pensation having been filed herein, all parties having appear-
ed, and the matter having been regularly heard and submitted,
R. O. Purvis, Referee, now makes his Findings and Award as
follows:

FINDINGS OF FACT:

1. John E. Swartout, while employed as an
asbestos worker by various employers, including the defendant,
Western Asbestos Company, in California and elsewhere, sus-
tained an injury arising out of and in the course of his em-
ployment consisting of asbestosis. At said time, the em-
ployee's wages were maximum.

2. Applicant has elected to proceed against
the Western Asbestos Company and its insurance carrier, the
State Compensation Insurance Fund, pursuant to Labor Code
Section 5500.5.

3. Said injury resulted in temporary total

1 disability beginning January 11, 1955, to and including
2 June 5, 1956.

3 4. The evidence establishes that said em-
4 ployee failed to give defendants notice of his need for medi-
5 cal treatment to cure or relieve him from the effects of said
6 injury.

7 5. The employee died on June 6, 1956, and
8 the evidence establishes that said death was proximately
9 caused by the injury herein.

10 6. The application for adjustment of claim
11 was filed herein within one year from the date of said injury.

12 7. The evidence fails to establish that de-
13 fendants or any of them have been prejudiced by lack of no-
14 tice of the claim asserted herein.

15 8. Said employee left surviving him, his
16 widow, Bergit A. Swartout, the applicant herein.

17 9. Applicant is entitled to the statutory
18 burial expense of \$400.00.

19 10. The employee incurred expense in the sum
20 of \$35.00 for examination and report by Dr. Allan E. Moe re-
21 quired to successfully prove his case.

22 11. Applicant's counsel, Smith & Parrish, have
23 performed services of the reasonable value of \$590.00.

24 AWARD:

25 AWARD IS MADE in favor of Bergit A. Swartout
26 and against the State Compensation Insurance Fund of accrued
27 temporary disability indemnity commencing January 11, 1955,
28 to and including June 5, 1956, at the rate of \$35.00 a week
29 in the total sum of \$2,555.00 payable forthwith.

30 AWARD IS FURTHER MADE in favor of Bergit A.
31 Swartout and against the State Compensation Insurance Fund
32 of a death benefit in the amount of \$7,000.00 payable at

hg

1 the rate of \$35.00 a week beginning June 6, 1956, less
2 \$500.00.

3 AWARD IS FURTHER MADE in favor of Bergit A.
4 Swartout and against the State Compensation Insurance Fund
5 for burial expense in the amount of \$400.00.

6 AWARD IS FURTHER MADE in favor of Bergit A.
7 Swartout and against the State Compensation Insurance Fund
8 of the sum of \$35.00 for medical-litigation costs payable to
9 Dr. Allan E. Moe.

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11
12 R. O. Purvis, Referee
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28 Filed and Served upon
29 parties shown on of-
30 ficial address record: March 4, 1958
31 hsg
32

BERGIT A. SWARTOUT

vs

MUNDET CORK CORPORATION, ET AL,

R. O. Purvis, Referee
February 26, 1958

Claim No. 55 SF 169-171
Inj: Asbestosis (Dec.)

REPORT OF REFEREE ON DECISION

Applicant is the widow of an employee who dies of pneumoconiosis (asbestosis) and claims accrued compensation for temporary disability and a death benefit.

REPORT OF RECORD:

Issues:

There were no admitted facts, and all appearing defendants raised the additional issues of Statute of Limitations, prejudice by reason of lack of notice and jurisdiction of the Commission.

Discussion:

The record disclosed that the employee died on May 30, 1956, and the medical evidence is without conflict that his death was due to asbestosis.

The employee filed the original application for adjustment of claim on December 30, 1955. The evidence in the record is that he first became disabled as the result of asbestosis on January 10, 1955, and that date was the first on which he knew he had the pulmonary disease. That date must be taken as the date of injury. The application was filed well within a year from the date of injury and, therefore, the claim is not barred by the Statute of Limitations. Applicant may recover both accrued temporary total disability and the death benefit.

The issue of jurisdiction was raised, defendants maintaining that inasmuch as some of the employee's employment was on board ships (not yet commissioned) afloat on navigable waters, the Commission is barred from making an award of compensation for that part of the injury occurring aboard such a vessel. This Referee does not agree with the contention. Applicant worked for the same employers, Western Asbestos Co., both on new ship construction work and at work on shore and, as a result of such exposure along with other employments for other employers, was exposed to dust resulting in his disability and death. He filed his application with this Commission and not with the U. S. Employees Compensation Commission. He had to elect one or the other and it was impossible to proceed in both. It is this Referee's opinion that the California Commission may assume jurisdiction over the whole claim and that the maritime exposure is compensable under the "twilight zone" theory of the case of Davis vs Department of Labor, 8 Cal Comp C 25, 317 US 249.

In any event, the major portion of applicant's employment was non-maritime, and it is impossible to segregate the exposure from either

employment from the other.

Applicant, proceeding under Labor Code Section 5500.5, elected to proceed against the defendant, Western Asbestos Co.

The employee incurred costs for self-procured medical treatment. However, applicant may not recover the cost thereof as no notice was given in advance to the defendants who, therefor, had no opportunity to furnish it.

Discussion:

Award must be made pursuant to the foregoing conclusions.

R. O. Purvis, Referee

ROP:hg

SWARTOUT - Claim No. 55 SF 169-171

R. O. PURVIS, Referee
Oakland - August 15, 1956

Injury: (Silicosis)
Death: May 30, 1956

REPORT OF REFEREE

Applicant testified substantially that she was married to the employee on July 5, 1939 at Albuquerque, New Mexico. He had been married before. They had no children. She exhibited a marriage certificate, which was read into the record. She was living with the employee at the time of his injury. They had not been divorced.

He was employed by the Western Asbestos Co. in 1940 to 1949 and again in 1954, always in California. He was employed running jobs, but most of the time working with asbestos, covering pipes, and so on. He was a member of Local 16, Asbestos Workers Union in San Francisco.

He first knew he had asbestosis in January of 1955. He stopped work on January 10, 1955 and has done no work since.

He was in the hospital six weeks at one time, then again two months. The first hospital was the Porterville Hospital, and the second, the Springville Sanitarium. He never recovered from his illness, and died May 30, 1956.

She has not paid the bill of Dr. Moe, \$35.00, for a report.

In the year before his death the employee's earnings were \$4800 to \$5000 or \$5200. He had worked steady at union scale. He had no periods of unemployment except one in 1947 or 1948 for about six months.

Her husband discussed his working conditions with her, and how hard he worked, and how he was covered with dust, and he felt his nose stuffed up with dust. His working clothes always had dust on them.

She has paid the burial expense of \$568.00, except for the cremation and the niche for the ashes. Exhibited a check to a mortuary, in the sum of \$534.00.

On cross-examination the witness testified substantially that on July 5, 1939 she married the employee at Albuquerque, New Mexico. That he has been married before. His wife had died in 1934 or 1935 in Minneapolis. That he had no children by this previous marriage. That she had not been married before. She knew the employee two years before she married him.

He worked for other employers at Albuquerque up to the time he came to San Francisco in 1947.

169-171 Swartout 8/15/56 (2)

He was working in Porterville for the Western Asbestos Co. in 1954, and then they came to Sacramento in 1955.

The last job he had done was for Armstrong Construction Co. for Bethlehem Steel.

At Porterville the employee was under the care of Dr. Parkinson. He saw him first, she believes, on January 17, 1955. He had a bad cold, and examination at that time showed that he had asbestosis. He was taken to the Porterville City Hospital, where he stayed six weeks. Then he remained at home two weeks, and then he was taken to Springville Sanitarium, where he stayed two months.

Following that they moved to Sacramento. At Sacramento he was under the care of Dr. Robert Harris, who put him in the Sacramento County Hospital; and then Dr. Harris sent him to Dr. Moe, who took care of him the rest of the time.

The last work he did was on January 10, 1955, and he was unable to work after that time due to asbestosis.

On cross-examination by Mr. Schwab, the witness testified substantially that he worked for the Armstrong Cork Co. after he left Porterville in 1954 right after Christmas. That he was on a job for the Armstrong on a ship at the Bethlehem Steel plant.

On cross-examination by Mr. Jenner the witness testified substantially that the employee had never worked at Southgate, California.

On redirect examination the witness testified substantially that the period of unemployment in 1947 was occasioned by the fact that they took six months time out and went to Chico to manage a motel. There was nothing wrong with the employee's health at that time, but they just tried out managing the motel and then gave it up.

On cross-examination by Mr. Conklin the witness testified that the name of the motel was the Willard Motel. Also that the employee worked as an asbestos worker since he was sixteen years old.

That she was with the employee when Dr. Parkinson told him he had asbestosis.

ROP:fg

R. O. PURVIS, Referee

SWARTOUT - Claim No. S.F. 169-171

REFEREE: WILLIAMSON
Oakland, 12-6-56

Inj: Silicosis
Death: 5-30-56

REPORT OF REFEREE

This matter was called for hearing at this time after having been continued from hearing of August 15, 1956.

Wayne Kelly was called by the applicant and identified himself as a business representative of Local 16 of the asbestos workers of the international union. He has held this position for the past year. Prior thereto he was an asbestos worker, and between 1945 and 1949 worked for Western Asbestos, where the decedent had worked. He had worked in the same areas and in the same work, applying asbestos to steam lines aboard destroyers located at Bethlehem Shipyard. He knew Swartout there and worked in the same compartments with him, doing the same kind of work.

Reference to previously admitted exhibits indicates that Swartout worked for Western Asbestos from 1941 to November, 1947, and another place, 1940 to the end of the year 1948. See Commission's Exhibit No. 1.

The witness explains that asbestos comes in molded shape consisting of two halves which are placed around steam pipes and fastened there. In this work it is necessary to cut the molded asbestos lining to length, which is done with a hand saw. The work is in the confined rooms and spaces aboard destroyers, where space is scarce and rooms are correspondingly small. The men never wore respirators, and each man was exposed to the dust, which was of white character, and settled on their clothes. The dust was heavy, and with the working of the asbestos and the sawing, it permeated the air.

On cross examination the witness stated that he and the other men working for Western Asbestos during those years used the Bethlehem plant as a sort of clearing house and worked out of this plant. His work with Mr. Swartout was on the destroyers, and Wayne Mead was the foreman in charge of this work on the destroyers. During the years he was there, he also worked under other foremen.

The work was quite dusty. He explains the asbestos dust floats in the air. It is much lighter than wood sawdust, and it is formed mostly of tiny particles or fibers that float through the air and may readily be seen when light strikes through the room. The dust settles heavily on their work clothes.

He states that he has observed that Johns Manville is the brand of the asbestos material that is used by Western Asbestos, and that the packages indicate 85% magnesium, and he believes the balance is asbestos. Where the material is to be put on very hot pipes, lesser magnesium is used and a higher percentage of asbestos is used.

All the work he did with the decedent was in connection with the destroyers at the Bethlehem plant. When this work was done, the ships were tied at the dock and were floating in water, but the work was done prior to the ship's being commissioned.

Bergit Swartout, the applicant in this case and widow of the deceased, was called to testify by Mr. Conklin, and she responded to questions that neither she nor her husband were ever furnished or promised any compensation or any medical treatment as a consequence of the alleged injury.

At this point the case is submitted. The parties request that the matter be referred back to Mr. Purvis for decision. It is further agreed that Mr. Purvis not be required to have a transcript of the testimony taken this day before this Referee.

DISPOSITION: Refer case back to Mr. Purvis.

HERBERT J. WILLIAMSON, Referee

HJW/et

RCS

APR 21 1958 WLN

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CLAIM NO. 55 SF 169-171

BERGIT A. SWARTOUT,

Applicant,

vs

MUNDET CORK CORP., HARRY A. DUTTON,
INC., DUTTON ASBESTOS CO., DUTTON
ASBESTOS & SUPPLY, WESTERN ASBESTOS
CO., BAY CITY ASBESTOS CO., LTD.,
CORK INSULATION CO., INC., WESTERN
FIBER GLASS COMPANY, GENERAL
INSULATION & RUBBER CORPORATION,
ARMSTRONG CORK CO., JOHNS MANVILLE
SALES CORPORATION, C. C. MOORE &
CO., J. T. THORPE & SON, INC.,
M. R. CARPENTER, AETNA INSURANCE
COMPANY, STATE COMPENSATION
INSURANCE FUND, INDUSTRIAL
INDEMNITY EXCHANGE, INDUSTRIAL
INDEMNITY COMPANY, LIBERTY MUTUAL
INSURANCE COMPANY, TRAVELERS
INSURANCE COMPANY, STANDARD
ACCIDENT INSURANCE COMPANY, and
PACIFIC EMPLOYERS INSURANCE COMPANY,

Defendants.

ORDER GRANTING
DEFENDANTS' PETITION
FOR
RECONSIDERATION

Mailed From San Francisco Office

4/21/58

Industrial Accident Commission
State of California

GOOD CAUSE APPEARING THEREFOR:

IT IS ORDERED that Defendants' Petition for Reconsideration
filed herein March 18, 1958, be, and the same hereby is, granted.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F.A. Lawrence

John J. Synon

Roland J. Henning

Commissioners

BERGIT A. SWARTOUT

vs

MUNDET CORK CORP., HARRY A. DUTTON, INC., DUTTON ASBESTOS CO., DUTTON ASBESTOS & SUPPLY, WESTERN ASBESTOS CO., BAY CITY ASBESTOS CO., LTD., CORK INSULATION CO., INC., WESTERN FIBER GLASS COMPANY, GENERAL INSULATION & RUBBER CORPORATION, ARMSTRONG CORK CO., JOHNS MANVILLE SALES CORPORATION, C. C. MOORE & CO., J. T. THORPE & SON, INC., M. R. CARPENTER, AETNA INSURANCE COMPANY, STATE COMPENSATION INSURANCE FUND, INDUSTRIAL INDEMNITY EXCHANGE, INDUSTRIAL INDEMNITY COMPANY, LIBERTY MUTUAL INSURANCE COMPANY, TRAVELERS INSURANCE COMPANY, STANDARD ACCIDENT INSURANCE COMPANY, and PACIFIC EMPLOYERS INSURANCE COMPANY

April 15, 1958

CLAIM NO. SF 169-171

REPORT OF PANEL ONE

The Panel is of the opinion that transcripts of the testimony should be prepared and the case returned to the Commissioners for further study.

Accordingly, Order is issuing granting Petition for Reconsideration.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F.A. Lawrence

John J. Synon

Roland J. Henning

Commissioners

BERGIT A. SWARTOUT

vs

MUNDET CORK CORP., et al,

R. O. Purvis, Referee
March 27, 1958

Claim No. 55 SF 169-171
Inj: 1-11-55 (Dec)

REPORT OF REFEREE ON RECONSIDERATION
(DUE: April 17, 1958)

Defendant petitions for reconsideration from an award to applicant, the widow of an employee who died of asbestosis. The award was for accrued compensation due the employee from the date of his first disability up to his death and for a death benefit.

The sole ground for reconsideration is "the claim for the death benefit is barred by the Statute of Limitations". Defendants admit, therefore, that the findings and award for injury arising out of and in the course of employment, temporary disability, death proximately caused by industrial injury, etc., are correct.

The undisputed facts are that applicant, an asbestos worker, sustained injury in his occupation consisting of asbestosis. His disability began on January 10, 1955. He died on June 6, 1956. He filed an application for adjustment of claim on December 30, 1955. His widow was substituted as party applicant on his death by an application filed June 13, 1956.

On the foregoing time table, defendant, State Compensation Insurance Fund, maintains its pleas of the Statute of Limitations is good. It relies on the fact that the employee's death occurred after one year from the date of injury and it had not furnished the employee any of the benefits of the Labor Code. In support of its position, defendant cites two cases.

One, Bianco vs I.A.C., 9 CCC 206. However in that case, the employee never filed a claim and the widow's claim was not filed for 2½ years after the employee's death. Also, the Labor Code has been amended since that case was decided.

The other case cited is Decker vs I.A.C., 14 CCC 3, a case where the District Court of Appeal refused to issue a writ of review. In that case, after a hearing, the Commission found that the employee had sustained no injury, and the widow attempted to re-open the case after the employee's death. That case, too, is factually different from the present case.

Applicant, in reply to defendant's petition, contends that the filing of an application by the employee removed the question of the Statute of Limitations from issue because of the language of Labor Code Section 5404 so far as the widow's claim is concerned, and with this answer the under-

signed Referee is in agreement.

It is the opinion of this Referee that the claim is not barred by the Statute and further, that defendant's position is equitably impossible; that even assuming that the statute bars the claim if no benefits had been paid within a year of filing for the death benefit, they are estopped to assert such a proposition. Benefits were not paid only because the defendants forced the employee to litigate his case instead of meeting their obligation to him. The position of defendants, if adopted, would bar a great percentage of industrial disease claims, and that was not the intent of the Legislature.

Applicant has filed an answer to the defendant's petition which is convincing and adequately answers their contentions.

RECOMMENDATION:

That defendant's Petition for Reconsideration be denied.

R. O. Purvis, Referee

at RLS

TOENSMEIER ADJUSTMENT SERVICE, INC.
INSURANCE ADJUSTERS

9/5/58

CHARLES J. COPE
ADJUSTER

LANCASTER, PENNA. OFFICE
39 N. DUKE STREET

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

CASE NO. 169-171

Sam E / 1-10-55
BERGIT A. SWARTOUT,
Applicant

v.

MUNDET CORK CORP., HARRY A. DUTTON,
INC., DUTTON ASBESTOS CO., DUTTON
ASBESTOS & SUPPLY CO., WESTERN
ASBESTOS CO., BAY CITY ASBESTOS CO.,
LTD., CORK INSULATION CO., INC.,
WESTERN FIBER GLASS COMPANY, GENERAL
INSULATION & RUBBER CORPORATION,
ARMSTRONG CORK CO., JOHNS MANVILLE
SALES CORPORATION, C. C. MOORE & CO.,
J. T. THORPE & SON, INC., M. R.
CARPENTER, AETNA INSURANCE COMPANY,
STATE COMPENSATION INSURANCE FUND,
INDUSTRIAL INDEMNITY EXCHANGE,
INDUSTRIAL INDEMNITY COMPANY, LIBERTY
MUTUAL INSURANCE COMPANY, TRAVELERS
INSURANCE COMPANY, STANDARD ACCIDENT
INSURANCE COMPANY and PACIFIC EMPLOYERS
INSURANCE COMPANY,

Defendants

DECISION
AFTER RECONSIDERATION

Filed from San Francisco
Industrial Accident
State of California

Reconsideration having been granted herein and, the
matter having been carefully considered, including transcripts
of the testimony, as well as the record as a whole, this Commis-
sion now concludes that further proceedings are not essential
for the disposition of the claim and makes its Decision after
Reconsideration as follows:

GOOD CAUSE APPEARING THEREFOR,

IT IS ORDERED that Findings and Award filed March 4,
1958 be, and the same is, vacated, annulled and set aside, and
that the following Findings and Award be substituted in lieu
thereof and made the Decision after Reconsideration of this
Commission.

FINDINGS OF FACT

1. John E. Swartout, while employed as an asbestos worker in the County of San Francisco, State of California, on January 10, 1955, by Western Asbestos Company, sustained an injury arising out of and occurring in the course of his employment, consisting of substantial and material exposure to asbestosis. At said time, the employee's wages were maximum.

2. There may have been like exposure in other employments both within and without the State of California.

3. Applicant has elected to proceed against the Western Asbestos Company and its insurance carrier, the State Compensation Insurance Fund, pursuant to Labor Code Section 5500.5.

4. Said injury resulted in temporary total disability beginning on January 11, 1955, continuing to and including June 5, 1956, entitling the employee to temporary total disability indemnity at the rate of \$35 a week in the total sum of \$2,555.

5. The evidence establishes that said employee failed to give defendants notice of his need for medical treatment to cure or relieve him from the effects of said injury.

6. The employee died on June 6, 1956, and the evidence establishes that said death was proximately caused by the injury herein.

7. The application for adjustment of claim was filed herein within one year from the date of said injury.

8. The evidence fails to establish that defendants or any of them have been prejudiced by lack of notice of the claim asserted herein.

9. Said employee left surviving him his widow, Bergit A. Swartout, the applicant herein.

10. Applicant is entitled to the statutory burial expense of \$400.

11. The employee incurred expense in the sum of \$35 for

1 : examination and report by Dr. Allan E. Moe required to success-
2 : fully prove his case.

3 : 12. Applicant's counsel, Smith & Parrish, have performed
4 : services of the reasonable value of \$600.

5 : A W A R D

6 : AWARD IS MADE in favor of Bergit A. Swartout and against
7 : the State Compensation Insurance Fund of accrued temporary disa-
8 : bility indemnity commencing January 11, 1955, to and including
9 : June 5, 1956, at the rate of \$35 a week in the total sum of
10 : \$2,555, payable forthwith.

11 : AWARD IS FURTHER MADE in favor of Bergit A. Swartout and
12 : against the State Compensation Insurance Fund of a death benefit
13 : in the amount of \$7,000, payable at the rate of \$35 a week begin-
14 : ning June 6, 1956, less \$600 payable to Smith & Parrish as
15 : attorneys' fee.

16 : AWARD IS FURTHER MADE in favor of Bergit A. Swartout and
17 : against the State Compensation Insurance Fund for burial expense
18 : in the amount of \$400.

19 : AWARD IS FURTHER MADE in favor of Bergit A. Swartout and
20 : against the State Compensation Insurance Fund of the sum of \$35
21 : for medical litigation costs, payable to Dr. Allan E. Moe,

22 : IT IS ORDERED that all payments herein shall bear interest
23 : as provided by Labor Code Section 5600.

24 :
25 : INDUSTRIAL ACCIDENT COMMISSION
26 : OF THE STATE OF CALIFORNIA

27 : F.A. Lawrence

28 :
29 : W. Lee DeMara, Jr.,

Deputy
Commissioner

30 : Commissioners

31 :
32 : Swartout
169-171
Dec aft Rec

BERGIT A. SWARTOUT

v. MUNDET CORK CORP., HARRY A. DUTTON, INC., DUTTON ASBESTOS CO., DUTTON ASBESTOS & SUPPLY CO., WESTERN ASBESTOS CO., BAY CITY ASBESTOS CO., LTD., CORK INSULATION CO., INC., WESTERN FIBER GLASS COMPANY, GENERAL INSULATION & RUBBER CORPORATION, ARMSTRONG CORK CO., JOHNS MANVILLE SALES CORPORATION, C. C. MOORE & CO., J. T. THORPE & SON, INC., M. R. CARPENTER, AETNA INSURANCE COMPANY, STATE COMPENSATION INSURANCE FUND, INDUSTRIAL INDEMNITY EXCHANGE, INDUSTRIAL INDEMNITY COMPANY, LIBERTY MUTUAL INSURANCE COMPANY, TRAVELERS INSURANCE COMPANY, STANDARD ACCIDENT INSURANCE COMPANY and PACIFIC EMPLOYERS INSURANCE COMPANY

June 6, 1958

Case No. 169-171

REPORT OF PANEL ONE ON
DECISION AFTER RECONSIDERATION

The record reflects that decedent, while employed as an asbestos worker on January 10, 1955 by Western Asbestos Company sustained an injury arising out of and occurring in the course of his employment, consisting of substantial and material exposure to asbestosis. The record further reflects that there may have been like exposures in other employments both within and without the State of California.

The injury caused total temporary disability from January 11, 1955 through June 5, 1956. Employee's death on June 6, 1956 was proximately caused by the injury herein, entitling applicant to death benefits.

It appears from the evidence that decedent failed to give notice to defendants of his need for medical treatment.

Applicant is entitled to the statutory burial expense and to medico-legal expense of \$35, payable to Dr. Moe.

Applicant's attorneys have rendered services herein of the reasonable value of \$600.

It is the opinion of the Panel that the claim is not barred by the statute of limitations and that the evidence fails to establish that defendants have been prejudiced by lack of notice of the claim asserted herein.

Decision after Reconsideration should issue accordingly.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F.A. Lawrence

W. Lee DeHara, Jr.,

Commissioners

Deputy
Commissioner

Before the Industrial Accident Commission
of the State of California

FEB 16 1959 WLH

Case No. 169-171

BERGIT A. SWARTCUT

Applicant—

vs.

MUNDET CORK CORPORATION, et al and
AETNA INSURANCE COMPANY, et al

Defendant—^s

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

510 Thayer Building
577 - 14th Street
Oakland, California

March 16th, 1959

10:00 A. M.

APPORTIONMENT OF LIABILITY

Dated at:

Oakland, California
February 10th, 1959

INDUSTRIAL ACCIDENT COMMISSION

NOTE: CONTINUANCES AND FURTHER HEARINGS ARE NOT FAVORED.

SERVICE UPON:

ALL OFFICIAL PARTIES (37) February 10th, 1959
fc

Vol. 2-171

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CLAIM NO. 169-171

BERGIT A. SWARTOUT,

Applicant

vs.

PETITION FOR
REAPPORTIONMENT OF
OCCUPATIONAL DISEASE
AWARD AND CONTRIBUTION
AMONG PARTIES DEFENDANT

MUMMET CORK CORP., HARRY A. DUTTON,
INC., DUTTON ASBESTOS CO., DUTTON
ASBESTOS & SUPPLY CO., WESTERN
ASBESTOS CO., BAY CITY ASBESTOS CO.,
LTD., CORE INSULATION CO., INC.,
WESTERN FIBER GLASS COMPANY, GENERAL
INSULATION & RUBBER CORPORATION,
ARMSTRONG CORK CO., JOHNS MANVILLE
SALES CORPORATION, C. C. MOORE & CO.,
J. T. THORPE & SON, INC., M. R.
CARPENTER, AETNA INSURANCE COMPANY,
STATE COMPENSATION INSURANCE FUND,
INDUSTRIAL INDEMNITY EXCHANGE,
INDUSTRIAL INDEMNITY COMPANY, LIBERTY
MUTUAL INSURANCE COMPANY, TRAVELERS
INSURANCE COMPANY, STANDARD ACCIDENT
INSURANCE COMPANY and PACIFIC EMPLOYERS
INSURANCE COMPANY,

Defendants.

Comes now the WESTERN ASBESTOS COMPANY and STATE
COMPENSATION INSURANCE FUND, defendants herein, with their Petition
for Reapportionment of Occupational Award and Contribution Among
Parties Defendant and in this connection respectfully alleges that:

1. On June 10th, 1958 decision after reconsideration
was issued by this honorable Commission awarding certain temporary
disability indemnity benefits and death benefits against the State
Compensation Insurance Fund in favor of Bergit A. Swartout,
applicant herein.

2. Said award was based upon a finding of injury of
John E. Swartout while employed as an asbestos worker in the
County of San Francisco, State of California, on January 10th,
1955 by Western Asbestos Company.

3. Pursuant to said award your petitioners have made

1
2
3 certain payments.

4 4. In addition this Commission found that there "may
5 have been like exposure in other employments both within and
6 without the State of California" (decision after reconsideration
7 filed June 10th, 1958).

8 5. This Commission further found that the applicant
9 has "elected to proceed against the Western Asbestos Company
10 and its insurance carrier, the State Compensation Insurance Fund
11 pursuant to Labor Code Section 5500.5" (decision after
12 reconsideration filed June 10th, 1958).

13 6. The various employers of John E. Swartout during his
14 exposure to asbestosis have heretofore been joined as parties
15 defendant herein and should now be required to contribute their
16 just portion of the liability assessed against your petitioner on
17 account of the industrially caused injury and subsequent death
18 suffered by John E. Swartout.

19 WHEREFORE, it is respectfully requested that pursuant to
20 the provisions of Labor Code 5500.5 further proceedings be now
21 ordered against the above named defendants for the purpose of
22 determining an apportionment of liability among the parties defend
23 previously joined or right of contribution at which proceeding all
24 of the above named defendants be ordered to appear and defend.

25 Copies of this petition have been mailed on the date
26 hereof to the parties listed on next page.

27 Respectfully submitted,

28 ALBERT S. SHERMAN
29 Attorney for Defendants

30 Dated at San Francisco, California
31 this 26th day of December, 1958.
32

- 1 c - Bergit A. Swartout
- 2 3615 Arden Way
- 3 Sacramento, California
- 4 c - Smith & Parriah
- 5 Attorneys at Law
- 6 Financial Center Bldg.
- 7 Oakland 12, California
- 8 c - Mundet Cork Corp.
- 9 7101 Tonnelle Ave.
- 10 North Bergen, New Jersey
- 11 c - Dutton Asbestos & Supply Co.
- 12 532 Natoma St.
- 13 San Francisco, California
- 14 c - Western Asbestos Co.
- 15 672 Townsend St.
- 16 San Francisco, California
- 17 c - Day City Asbestos Co.
- 18 251 - 5th Avenue
- 19 Oakland, California
- 20 c - Cork Insulation Co., Inc.
- 21 730 - 5th Avenue
- 22 New York, N.Y.
- 23 c - Western Fiber Glass Co.
- 24 739 Bryant St.
- 25 San Francisco, California
- 26 c - General Insulation & Rubber Corp.
- 27 1247 Main Street
- 28 El Centro, California
- 29 c - Armstrong Cork Co.,
- 30 Lancaster, Pennsylvania
- 31 c - Johns Manville Sales Corp.
- 32 22, East 40th Street
- 33 New York, N.Y.
- 34 c - C. C. Moore & Co.
- 35 450 Mission Street
- 36 San Francisco, California
- 37 c - J. T. Thorpe & Son, Inc.
- 38 1351 Ocean Avenue
- 39 Emeryville, California
- 40 c - M. R. Carpenter
- 41 907 Front Street
- 42 Sacramento, California
- 43 c - Aetna Insurance Company
- 44 220 Montgomery Street
- 45 San Francisco, California
- 46 c - Industrial Indemnity Exchange
- 47 135 Sansome Street
- 48 San Francisco, California
- 49 c - Industrial Indemnity Co.
- 50 350 Sansome Street
- 51 San Francisco, California
- 52 c - Liberty Mutual Insurance Co.
- 53 216 Pine Street
- 54 San Francisco, California
- 55 c - Travelers Insurance Co.
- 56 315 Montgomery Street
- 57 San Francisco, California
- 58 c - Standard Accident Insurance Co.
- 59 417 Montgomery Street
- 60 San Francisco, California
- 61 c - Pacific Employers Insurance Co.
- 62 505 Montgomery Street
- 63 San Francisco, California
- 64 c - Claims Department

AS:rl

JUL 24 1959 W14

JUL 27 1959 W14

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CLAIM NO. SF 169-171

BERGIT A. SWARTOUT, 1-10-55
Applicant
vs
MUNDET CORK CORPORATION, et al;
AETNA INSURANCE COMPANY, et al,
Defendants.

FILED: JULY 21 1959

NOTICE OF CANCELLATION OF
HEARING, AND ORDER TAKING
OFF CALENDAR

NOTICE IS HEREBY GIVEN to the parties in the above entitled case that the hearing heretofore scheduled therein, has been cancelled pursuant to request of defendant State Compensation Insurance Fund, by letter dated JULY 15, 1959, and

GOOD CAUSE APPEARING THEREFOR:

IT IS HEREBY ORDERED That the above entitled matter be and the same hereby is taken off calendar, and all further action on the matters now pending herein suspended, subject to being reset, after notice, upon request of any of the parties hereto.

MAILED AT OAKLAND 7-21-59 -KH:

DANIEL C. MURPHY, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

- Bergit A. Swartout XX, PO Box 8053 Broadway Station, Sacto. 18
- Smith & Parrish, Financial Center Bldg. Oakland
- Pillsbury, Madison & Sutro, 225 Bush St., San Francisco
- Aetna Insurance Co., 220 Montgomery St., San Francisco
- Industrial Indemnity Exchange 155 Sansome St., SF.
- Industrial Indemnity Co., 350 Sansome St., SF
- Pacific Indemnity Co., 114 Sansome St., SF
- Liberty Mutual Ins. Co., 221 216 Pine St., SF (Mr. Walter Kohn)
- Employers Mutual Liab. Ins. Co. of Wisconsin, 114 Sansome St., SF
- Travelers Insurance Co., 315 Montgomery St., SF
- Standard Accident Ins. Co., 417 Montgomery St., SF
- Pacific Employers Ins. Co., 505 Montgomery St., SF
- Sedgwick, Detert, Moran & Arnold, 100 Bush St., SF
- Hanna & Brophy, 100 Bush St., SF and Oakland
- State Compensation Insurance Fund, 450 McAllister St., SF
- General Accident Fire & Life Assur. Corp., Pacific Mut. Bldg., SF
- Henry G. Sanford, Hobart Bldg., SF
- Mullen & Filippi, 315 Montgomery St., SF.
- Hadsell, Murman & Bishop
- Employers Mutual Liability Insurance Co. of Wisconsin, 114 Sansome St.

ORDER TAKING OFF CALENDAR - CLAIM CY 169-171

PARTIAL SERVICE (CONTINUED)
MAILED AT OAKLAND 7-21-59 - RM

Mundt Cork Corp., 7107 Tonnelle Ave., North Bergen, N.Y.
HARRY A. BERTON, INC., 532 Katona St., SF
S. R. Dutton Co., 532 Katona St., SF
Dutton Asbestos & Supply Co., 532 Katona St., SF
Western Asbestos Co., 675 Townsend St., SF
Key City Asbestos Co., Ltd., 251 5th Ave., Oakland
Cork Insulation Co., Inc., 730 5th Ave., N.Y.
Western Fiber Glass Co., 739 Bryant St., SF
General Insulation & Rubber Corp., 1247 Main St., El Centro, Calif.
Armstrong Cork Co., Lancaster, Penn.
Johns Manville Sales Corp., 22 East 40th St., N.Y.
Johns Manville, Pittsburg, Calif., 22 East 40th St., N.Y.
C.C. Moore & Co., 450 Mission St., SF
J.Y. Thorpe & Son, Inc., 1351 Ocean Ave., Emeryville, Calif.
K.E. Carpenter, 907 Front St., Sacramento, Calif.
Phillip Carr Mfg. Co., c/o General Accident Fire & Life Assur.
Corp., Pacific Mutual Bldg., SF

RES

STATE COMPENSATION INSURANCE FUND

EXECUTIVE OFFICES • 450 McALLISTER STREET • SAN FRANCISCO 1

EARL R. HOWARD GENERAL MANAGER
R. A. YOUNG ASST. GEN'L. MGR.
H. C. MILLER COMPTROLLER
DONALD GALLAGHER CHIEF COUNSEL
J. H. LEIMBACH, M.D. MEDICAL DIRECTOR



LOS ANGELES
CHICO
EUREKA
FRESNO
LONG BEACH
OAKLAND
REDDING
SACRAMENTO
SAN BERNARDINO
SAN DIEGO
SAN JOSE
STOCKTON

AT 359 WLD

July 15, 1959

IN REPLY REFER TO

Industrial Accident Commission
577-14th Street, Room 510
Oakland, California

No. 319552

John E. Swartout (Deceased)

d/a 1-10-55 last day worked

Re: I.A.C. Claim No. 169-171

Gentlemen:

This matter is now set for hearing on August 3, 1959, 9:00 a.m., at 510 Thayer Building, 577-14th Street, Oakland, California.

In the last few weeks we have received a number of communications from various persons indicating that there is some serious doubt as to whether the information with regard to prior employments as set forth in the letter from the Department of Health, Education and Welfare, Social Security Administration, dated March 29, 1956, is a complete and correct statement of the actual employers of the deceased, John E. Swartout, for the periods indicated therein.

In addition we are informed by Dr. Hinshaw's office that he in all probability will be unavailable for purposes of testifying on August 3, 1959. The appearance of Dr. Hinshaw is necessitated by the refusal of the various party defendants to accept his medical reports in lieu of his oral testimony.

Therefore, for the reasons stated above, it is respectfully requested that the hearing now scheduled for August 3, 1959 be canceled and the matter ordered taken off calendar. This order will enable your defendants to attempt to gain more complete and exact information as to the various employers of the deceased, John E. Swartout, and effect a proper service upon these persons.

Very truly yours,

ALBERT SENNETT
Attorney

AS:fr

c - See next page

Industrial Accident Commission

2.

July 15, 1939

- c - Mrs. John E. Swartout
P. O. Box 8053 - Broadway Station
Sacramento 18, California
- c - Smith & Parrish
501 Financial Center Bldg.
Oakland 12, California
- c - Mundet Cork Corp.
7101 Tonnells Ave.
North Bergen, N. J.
- c - Harry A. Dutton, Inc.
532 Natoma St.
San Francisco 3, California
- c - Dutton Asbestos Co.
532 Natoma St.
San Francisco 3, California
- c - Dutton Asbestos & Supply Co.
532 Natoma St.
San Francisco 3, California
- c - Western Asbestos Co.
675 Townsend St.
San Francisco 3, California
- c - Bay City Asbestos Co., Ltd.
251 - 5th Ave.
Oakland, California
- c - Cork Insulation Co.
750 - 5th Ave.
New York City, N. Y.
- c - Western Fibrous Glass Prod. Co.
739 Bryant St.
San Francisco 7, California
- c - General Insulation & Rubber Corp.
1247 Main Street
El Centro, California
- c - Armstrong Cork Co.
Lancaster, Pennsylvania
- c - Johns Manville Sales Corp.
22 East 40th St.
New York City, N. Y.
- c - C. C. Moore & Co.
450 Mission St.
San Francisco 5, California
- c - J. T. Thorpe & Son, Inc.
1351 Ocean Ave.
Emeryville, California
- c - M. R. Carpenter
907 Front St.
Sacramento, California
- c - S. R. Dutton Co.
532 Natoma St.
San Francisco 3, California

C
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Y

Industrial Accident Commission

3.

July 15, 1959

- c - Bay Cities Asbestos Co.
251 - 5th Ave.
Oakland, California
- c - Western Fiberglass Supply Co.
739 Bryant St.
San Francisco 7, California
- c - General Insulation Co.
San Francisco, California
- c - The Asbestos & Magnesia Materials Co.
Chicago, Illinois
- c - Asbestos Supply Co. of Seattle
Fairbanks, Alaska
- c - Phillip Carr Rgr. Co.
Cincinnati, Ohio
- c - Incoas Asbestos Co. of Tacoma
Anchorage, Alaska
- c - Jaxar-Cline Co. of Chicago
Terre Haute, Indiana
- c - Johns Manville
Trenton, New Jersey
- c - Insulation Services of Minn.
Terre Haute, Indiana
- c - Hunter Manufacturing Corp. of Bristol, Pa.
Tucson, Arizona
- c - Johns Manville
Pittsburg, California
- c - Pillsbury, Madison & Sutro
223 Bush St.
San Francisco 4, California
- c - Aetna Insurance Co.
220 Montgomery St.
San Francisco 4, California
- c - Industrial Indemnity Exchange
155 Sansome St.
San Francisco 4, California
- c - Industrial Indemnity Co.
150 Sansome St.
San Francisco 4, California
- c - Pacific Indemnity Co.
114 Sansome St.
San Francisco 4, California
- c - Liberty Mutual Insurance Co.
216 Pine St.
San Francisco 4, California
- c - Employers Mutual Liab. Ins. Co. of Wisconsin
114 Sansome St.
San Francisco 4, California
- c - Travelers Ins. Co.
315 Montgomery St.
San Francisco 4, California

C
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Industrial Accident Commission

4.

July 15, 1959

- c - Standard Accident Ins. Co.
417 Montgomery St.
San Francisco 4, California
- c - Pacific Employers Ins. Co.
505 Montgomery St.
San Francisco 11, California
- c - Pacific Employers Ins. Co.
3770 Piedmont Ave.
Oakland, California
- c - Sedgwick, Betts, Moran & Arnold
100 Bush St.
San Francisco 4, California
- c - Leonard, Hanna & Drophy
100 Bush St.
San Francisco 4, California
- c - Claims Department

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Before the Industrial Accident Commission
of the State of California

221 1W11

Case No. SF 169-171

BERGIT A. SWARTOUT

Applicant

vs.

MUNDET CORK CORPORATION, et al and
AETNA INSURANCE COMPANY, et al

Defendants

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

510 Thayer Building
577 - 14th Street
Oakland, California

9:00 A. M. (ALL A.M.)

August 3rd, 1959
THE MATTER IS SET FOR HEARING IN RESPONSE TO REQUEST OF STATE
D. COMPENSATION INSURANCE FUND MADE AT HEARING OF MARCH 16th, 1959
Oakland, California

INDUSTRIAL ACCIDENT COMMISSION

NOTE: CONTINUANCES AND FURTHER HEARINGS ARE NOT FAVORED.

SERVICE UPON:

All official parties (37)

June 18th, 1959
fc

STATE COMPENSATION INSURANCE FUND

EXECUTIVE OFFICES • 450 McALLISTER STREET • SAN FRANCISCO 1

EARL R. HOWARD
R. A. YOUNG
H. C. MILLER
DONALD GALLAGHER
J. H. LEIMBACH, M.D.

GENERAL MANAGER
ASST. GEN'L. MGR.
COMPTROLLER
CHIEF COUNSEL
MEDICAL DIRECTOR



LOS ANGELES
CHICO
EUREKA
FRESNO
LONG BEACH
OAKLAND
REDDING
SACRAMENTO
SAN DIEGO
SAN JOSE
STOCKTON

February 24, 1959

IN REPLY REFER TO

319552

1-10.55

John E. Swartout, Dec.

Industrial Accident Commission
577 - 14th Street
Oakland, California

Attention: Olney L. Huff, Referee

Re: Bergit A. Swartout vs. Mundet Cork Corp.,
and Aetna Casualty & Surety Company, et al
Claim No. SF 169-171

Dear Mr. Huff:

We are now in receipt of your letter of February 17, 1959.

Please be advised that we have this date served the following additional parties with our Petition for Reapportionment, etc., initially forwarded to this Commission on December 26, 1958.

Thank you for your cooperation.

Very truly yours,

ALBERT SENNETT
Attorney

AS:rl

c - See next page

C
O
P
Y

- * c - Mrs. John E. Swartout
3000 Merrywood Drive
Sacramento, California
- c - Smith & Parrish
501 Financial Bldg.
Oakland, California
- c - Mundet Cork Corp.
7101 Tonnelle Ave.
North Bergen, N. J.
- * c - Harry A. Dutton, Inc.
532 Natoma St.
San Francisco, California
- c - Dutton Asbestos Co.
532 Natoma St.
San Francisco, California
- * c - Dutton Asbestos & Supply Co.
532 Natoma St.
San Francisco, California
- c - Western Asbestos Co.
675 Townsend St.
San Francisco, California
- * c - Bay City Asbestos Co., Ltd.
251 - 5th Ave.
Oakland, California
- c - Cork Insulation Co.
750 - 5th Ave.
N.Y.
- c - Western Fibrous Glass Prod. Co.
739 Bryant St.
San Francisco, California
- c - General Insulation & Rubber Corp.
1247 Main Street
El Centro, California
- c - Armstrong Cork Co.
Lancaster, Pennsylvania
- c - Johns Manville Sales Corp.
22 East 40th St.
N. Y.
- c - C. C. Moore & Co.
450 Mission St.
San Francisco, California
- c - J. T. Thorpe & Son, Inc.
1351 Ocean Ave.
Emeryville, California
- c - Mr. R. Carpenter
507 Front St.
Sacramento, California
- * c - S. R. Dutton Company
532 Natoma St.
San Francisco, California
- c - Bay Cities Asbestos Co.
251 - 5th Ave.
Oakland, California
- * c - Western Fiberglass Supply
739 Bryant St.
San Francisco, California

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- *c - General Insulation Co.
San Francisco, California
- *c - The Asbestos & Magnesia Materials Co.
Chicago, Illinois
- * c - Asbestos Supply Co. of Seattle
Fairbanks, Alaska
- * c - Phillip Care Mfg. Co.
Cincinnati, Ohio
- * c - Tacoma Asbestos Co. of Tacoma
Anchorage, Alaska
- * c - Jamar-Olmen Co. of Chicago
Terre Haute, Indiana
- * c - Johns Manville
Trenton, New Jersey
- * c - Insulation Services of Minn.
Terre Huate, Indiana
- * c - Hunter Manufacturing Corp. of Bristol Pa.,
Tuscon, Arizona
- * c - Johns Manville
Pittsburg, California
- * c - Pillsbury, Madison & Sutro
225 Bush St.
San Francisco, California
- c - Aetna Insurance Co.
220 Montgomery St.
San Francisco, California
- c - Industrial Indemnity Exchange
155 Sansome St.
San Francisco, California
- c - Industrial Indemnity Co.
350 Sansome St.
San Francisco, California
- * c - Pacific Indemnity Co.
114 Sansome St.
San Francisco, California
- c - Liberty Mutual Insurance Co.
216 Pine Street
San Francisco, California
- *c - Employers Mutual Liab. Ins. Co. of Wisconsin
114 Sansome St.
San Francisco, California
- c - Travelers Ins. Co.
315 Montgomery St.
San Francisco, California
- c - Standard Accident Ins. Co.
417 Montgomery St.
San Francisco, California
- c - Pacific Employers Ins. Co.
505 Montgomery St.
San Francisco, California

- * c - Pacific Employers Ins. Co.
3770 Piedmont Ave.
Oakland, California
- * c - Sedgwick, Deter, Moran & Arnold
100 Bush Street
San Francisco, California
Att: T. P. Niedermuller
- * c - Leonard, Hanna & Brophy
100 Bush Street
San Francisco, California

* These parties served copy of defendant State Fund's
Petition for Reapportionment of Occupational Disease
Award and Contribution among Parties Defendant on
February 24, 1959.

C
O
P
Y

*
c - Mrs. John E. Swartout
3000 Merrywood Drive
Sacramento, California

c - Smith & Parrish
501 Financial Bldg.
Oakland, California

c - Mundet Cork Corp.
7101 Tonnelie Ave.
North Bergen, N. J.

* c - Harry A. Dutton, Inc.
532 Natoma St.
San Francisco, California

c - Dutton Asbestos Co.
532 Natoma St.
San Francisco, California

* c - Dutton Asbestos & Supply Co.
532 Natoma St.
San Francisco, California

c - Western Asbestos Co.
675 Townsend St.
San Francisco, California

* c - Bay City Asbestos Co., Ltd.
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Oakland, California

c - Cork Insulation Co.
750 - 5th Ave.
N. Y.

c - Western Fibrous Glass Prod. Co.
739 Bryant St.
San Francisco, California

c - General Insulation & Rubber Corp.
1247 Main Steet
El Centro, California

c - Armstrong Cork Co.
Lancaster, Pennsylvania

c - Johns Manville Sales Corp.
22 East 40th St.
N. Y.

c - C. C. Moore & Co.
450 Mission St.
San Francisco, California

c - J. T. Thorpe & Son, Inc.
1351 Ocean Avenue
Emeryville, California

c - M. R. Carpenter
907 Front St.
Sacramento, California

* c - S. R. Dutton Company
532 Natoma St.
San Francisco, California

c - Bay Cities Asbestos Co.
251 - 5th Ave.
Oakland, California

* c - Western Fiberglass Supply Co.
739 Bryant St.
San Francisco, California

c - General Insulation Co.
 San Francisco, California
 *
 c - The Asbestos & Magnesite Materials Co.
 Chicago, Illinois
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 c - Asbestos Supply Co. of Seattle
 Fairbanks, Alaska
 *
 c - Phillip Carey Mfg. Co.
 Cincinnati, Ohio
 *
 c - Tacoma Asbestos Co. of Tacoma
 Anchorage, Alaska
 *
 c - Jamar-Olmen Co. of Chicago
 Terre Haute, Indiana
 *
 c - Johns Manville
 Trenton, New Jersey
 *
 c - Insulation Services of Minn.
 Terre Haute, Indiana
 *
 c - Hunter Manufacturing Corp. of Bristol Pa.
 Tucson, Arizona
 *
 c - Johns Manville
 Pittsburg, California
 *
 c - Pillsbury, Madison & Sutro
 225 Bush St.
 San Francisco, California
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 San Francisco, California
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 c - Pacific Indemnity Co.
 114 Sansome St.
 San Francisco, California
 c - Liberty Mutual Insurance Co.
 216 Pine St.
 San Francisco, California
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 c - Employers Mutual Liab. Ins. Co. of Wisconsin
 114 Sansome St.
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 315 Montgomery St.
 San Francisco, California
 c - Standard Accident Ins. Co.
 417 Montgomery St.
 San Francisco, California
 c - Pacific Employers Ins. Co.
 505 Montgomery St.
 San Francisco, California

- * c - Pacific Employers Ins. Co.
3770 Piedmont Ave.
Oakland, California
- * cc - Sedgwick, Deter, Moran & Arnold
100 Bush Street
San Francisco, California
Att: T. P. Niedermuller
- * c - Leonard, Hanna & Brophy
100 Bush Street
San Francisco, California

* These parties served copy of defendant State Fund's
Petition for Reapportionment of Occupational Disease
Award and Contribution among Parties Defendant on
February 24, 1959.

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

2 *****

3 BERGIT A. SWARTOUT,) Claim No. 169-171
4 Applicant,)
5 vs.) MINUTES OF HEARING
6) SUPPLEMENTAL
7 MUNDET CORK CORP., HARRY A. DUTTON,)
8 INC., DUTTON ASBESTOS CO., DUTTON)
9 ASBESTOS & SUPPLY CO., WESTERN ASBESTOS)
10 CO., BAY CITY ASBESTOS CO., LTD., CORK)
11 INSULATION CO., INC., WESTERN FIBER GLASS)
12 COMPANY, GENERAL INSULATION & RUBBER)
13 CORPORATION, ARMSTRONG CORK CO., JOHNS)
14 MANVILLE SALES CORPORATION, C. C. MOORE &)
CO., J. T. THORPE & SON, INC., M. R. CARPENTER)
AETNA INSURANCE COMPANY, STATE COMPENSATION)
INSURANCE FUND, INDUSTRIAL INDEMNITY)
EXCHANGE, INDUSTRIAL INDEMNITY COMPANY,)
LIBERTY MUTUAL INSURANCE COMPANY,)
TRAVELERS INSURANCE COMPANY, STANDARD)
ACCIDENT INSURANCE COMPANY, and)
PACIFIC EMPLOYERS INSURANCE COMPANY,)
Defendants.

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
MAR 19 1959

Ra

15
16 Place and Time; Oakland, California - March 16, 1959 10:00 A.M.

17 REFEREE: Murphy
18 REPORTER: Naismith .

19 APPEARANCES: Applicant not present; not represented by counsel.

20 Western Asbestos Company and State Compensation
Insurance Fund represented by Albert Sennett.

21 Defendant C. C. Moore & Co. represented by Hadsell,
22 Murman & Bishop, Attorneys - Nelson Barry,
appearing.

23 Defendant Industrial Indemnity Company (Bay City
24 Asbestos Co., Ltd.) represented by Hanna & Brophy,
Attorneys - Ivan A. Schwab, appearing.

25 Defendant Industrial Indemnity Exchange (Western
26 Fiber Glass Company) represented by Hanna & Brophy,
Attorneys - Ivan A. Schwab, appearing.

27 Defendant Standard Accident Insurance Company and
28 Travelers Insurance Company (Armstrong Cork Co.)
represented by Hanna & Brophy, Attorneys - Ivan
A. Schwab, appearing.

29 Defendant Liberty Mutual Insurance Company (for
30 Armstrong Cork Co.) represented by Walter Kohn,
Attorney - Lawrence Weitzer, appearing.

DISPOSITION: Submitted.

12 p
Bk 107

HEARING MARCH 16, 1959

Defendant Pacific Employers Insurance Company (for J. T. Thorpe & Son, Inc.) represented by Mullen & Filippi, Attorneys - William Mullen, appearing.

Theodore Neidermuller of Sedgwick, Detert, Moran & Arnold, Specially appearing for Aetna Insurance Company and its assured Mundet Cork Corporation.

EXHIBITS:

Pacific Employers Exhibit A - Wage statement.
Standard Accident " A - Wage statement.
Travelers Insurance " A - Wage statement.

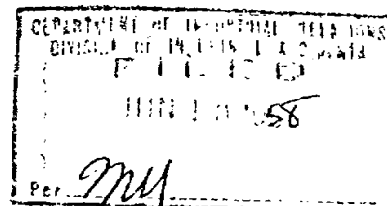
ISSUES: 1. Apportionment of liability.

✓ INBA ✓ 4

BINGHAM A. ... US.

[illegible]

APPROXIMATELY 1000



Reconsideration having been granted herein, the matter having been carefully considered, including the entire testimony, as well as the record as a whole, this Commission now concludes that further proceedings are not essential for the disposition of the claim and makes its Decision after Reconsideration as follows:

GOOD CAUSE APPEARING THEREFOR.

IT IS ORDERED that Finding " and Award filed March 4, 1958 be, and the same is, vacated, annulled and set aside, and that the following Findings and Award be substituted in lieu thereof and made the Decision after reconsideration of this Commission.

EXHIBIT 12-0117

1. John B. Swartout, while employed as a chestnut worker in the County of San Francisco, California, on January 10, 1955, by Western Ashbeaver, Inc., sustained an injury arising out of and in the course of his employment, consisting of substantial impairment of his right arm, and at the time, the employ of wages was \$12.55 per hour.

2. Swartout, prior to the injury, was employed by Western Ashbeaver, Inc., both within and without the County of San Francisco.

3. Swartout, prior to the injury, was employed by the Western Ashbeaver Co., and prior to the injury, the rate of compensation for the injury was \$12.55 per hour.

4. Swartout, prior to the injury, was employed by Western Ashbeaver, Inc., and prior to the injury, the rate of compensation for the injury was \$12.55 per hour. Beginning on June 5, 1955, Swartout, the employee, was entitled to disability indemnity at the rate of \$12.55 per hour, or \$12.55.

5. The evidence fails to establish that Swartout failed to give defendant notice of the injury and the treatment to cure or relieve him from the effects of the injury.

6. The employee died on June 5, 1955, and the evidence establishes that said death was directly caused by the injury herein.

7. The application for adjustment of claim was filed herein within one year from the date of said injury.

8. The evidence fails to establish that defendants or any of them have been prejudiced by lack of notice of the claim asserted herein.

9. Said employee left surviving him his widow, Bergit A. Swartout, the applicant herein.

10. Applicant is entitled to the statutory burial expense of \$400.

11. The employee incurred expense in the sum of \$335 for

2. *svy* - survey

10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 8

F A Lawrence

[Signature]

Deputy
Commissioner

JUN 9 - 1959

BERGIT A. SWARTOUT

[illegible]

1958

100-443488-100

The record reflects that from 1945 to 1955, [redacted] sustained an injury arising out of and in the course of his employment, as a laborer in the state of California. The record also reflects that [redacted] was employed in other employments in the state of California from January 11, 1955

1. Injury caused by a falling object on January 11, 1955 through June 5, 1955. Injury on June 6, 1955 was proximately caused by the injury he sustained on the application to death.

It appears from the evidence that [redacted] failed to give notice to defendants of his [redacted] and for no legal purpose.

Applicant is entitled to the sum of \$100.00 and to reimbursement of expenses payable to him for the purpose of the reason-

11. An expense of \$600 payable to the
 Plaintiff's attorneys have rendered services herein of the reason-
 able value of \$600

It is the opinion of the Panel that the claim is not barred by the statute of limitations and that the evidence fails to establish that defendants have been prejudiced by lack of notice of the claim asserted herein.

Decision after Reconsideration should issue accordingly.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F A Lawrence

W. A. H.
Commissioner

Deputy
Commissioner

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CLAIM NO. SF 169-171

BERGIT A. SWARTOUT,

Applicant

-vs-

MUNDET CORK CORPORATION, et al;
AETNA INSURANCE COMPANY, et al,

Defendants.

FILED
APR 21 1960

ORDER DISMISSING FOR LACK OF
PROSECUTION DEFENDANT STATE
COMPENSATION INSURANCE FUND'S
"PETITION FOR REAPPORTIONMENT
OF OCCUPATIONAL DISEASE AWARD
AND CONTRIBUTION AMONG PARTIES"

Notice of Intention to Dismiss "Petition for Reapportionment"
for Lack of Prosecution having been filed and served on APRIL 18,
1960, and no objection thereto having been received within the time
set forth in said Notice,

IT IS HEREBY ORDERED That Defendant STATE COMPENSATION
INSURANCE FUND'S "PETITION FOR REAPPORTIONMENT" be, and it is
hereby, dismissed for lack of prosecution.

MAILED AT OAKLAND 4-29-60--KH:

Daniel C. Murphy
DANIEL C. MURPHY, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

All parties of record, as
indicated on Order Taking
Off Calendar heretofore
served under date of July
21, 1959.

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CLAIM NO. SF 162-171

JOHN E. SWARTOUT,

Applicant

-vs-

MUNDET CORK CORPORATION, et al;
AETNA INSURANCE COMPANY, et al
Defendants.

NOTICE OF INTENTION TO DISMISS
"PETITION FOR REAPPORTIONMENT"
FOR LACK OF PROSECUTION

NOTICE IS HEREBY GIVEN that unless good cause be shown
to the contrary in writing within SEVEN (7) DAYS from date of
service hereof, Defendant STATE COMPENSATION INSURANCE FUND'S
"PETITION FOR REAPPORTIONMENT OF OCCUPATIONAL DISEASE AWARD AND
CONTRIBUTION AMONG PARTIES DEFENDANT", filed DECEMBER 29, 1958,
will be dismissed for lack of prosecution.

Daniel C. Murphy
DANIEL C. MURPHY, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

MAILED AT OAKLAND 4-12-60---KH:

Hanna & Brophy, Oakland
Bergit A. Swartout
Smith, Parrish, Paduck & Clancy
Pillsbury, Madison & Sutro
Atty. Walter Kohn, Liberty Mutual, SF
Hadsell, Murman & Bishop
Sedgwick, Detert, Moran & Arnold
Mullen & Filippi
State Compensation Insurance Fund
Henry G. Sanford
Industrial Indemnity Co. (049440)
Travelers Ins. Co., Oakland (B7814289)
Standard Accident Ins. Co., San Bruno (96C728796)

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CLAIM NO. SF 169-171

BERGIT A. SWARTOUT,

Applicant

-vs-

MUNDET CORK CORPORATION, et al;
AETNA INSURANCE COMPANY, et al.

Defendants.

FILED:

JULY 21 1959

NOTICE OF CANCELLATION OF
HEARING, AND ORDER TAKING
OFF CALENDAR

NOTICE IS HEREBY GIVEN to the parties in the above entitled case that the hearing heretofore scheduled for AUGUST 3, 1959, on "Petition for Reapportionment of Occupational Disease Award and Contribution Among Parties Defendant, filed by WESTERN ASBESTOS COMPANY and STATE COMPENSATION INSURANCE FUND on DECEMBER 29, 1958, has been cancelled pursuant to request of defendant State Compensation Insurance Fund by letter dated JULY 15, 1959, and

GOOD CAUSE APPEARING THEREFOR:

IT IS ORDERED That the above entitled matter be, and it hereby is, taken off calendar, and all further action on the matter now pending herein suspended, subject to being reset, after notice, upon request of any of the parties hereto.

Daniel C. Murphy
DANIEL C. MURPHY, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

MAILED AT OAKLAND 7-21-59 - KH:

Bergit A. Swartout, PO Box 8053, Broadway Station, Sacramento
Smith, Parrish, Paduck & Clancy, Financial Center Bldg., Oakland
Pillsbury, Madison & Sutro, 225 Bush St., San Francisco
Aetna Insurance Co., 220 Montgomery St., San Francisco
Industrial Indemnity Exchange, 155 Sansome St., San Francisco
Industrial Indemnity Co., 350 Sansome St., San Francisco
Pacific Indemnity Co., 114 Sansome St., San Francisco
Liberty Mutual Ins. Co., (Mr. Walter Kohn), 216 Pine St., S.F.
Employers Mutual Liab. Ins. Co. of Wisconsin, 114 Sansome St., SF
Travelers Insurance Co., 315 Montgomery St., SF
Standard Accident Ins. Co., 417 Montgomery St., SF
Pacific Employers Ins. Co., 244 Pine St., SF
Sedgwick, Detert, Moran & Arnold, 100 Bush St., SF
Hanna & Brophy, 100 Bush St., SF and 1540 San Pablo Ave., Oakland
State Compensation Insurance Fund, 450 McAllister St., San Francisco
General Accident Fire & Life Assur. Corp., Pacific Mutual Bldg., SF
Henry G. Sanford, Hobart Bldg., SF
Mullen & Filippi, 315 Montgomery St. SF
Hadsell, Murman & Bishop, 405 Montgomery St., SF

1 ORDER TAKING OFF CALENDAR - CLAIM SF 169-171

2
3 PARTIES SERVED (CONTINUED)
4 MAILED AT OAKLAND 7-21-59 - KH:

5 Mundet Cork Corp., 7107 Tonnelle Ave., North Bergen, N.J.
6 HARRY A. DUTTON, INC., 532 Natoma St., SF
7 S. R. Dutton Co., 532 Natome St. SF
8 Dutton Asbestos & Supply Co., 532 Natoma St., SF
9 Western Asbestos Co., 675 Townsend St., SF
10 Bay City Asbestos Co., Ltd., 251 5th Ave., Oakland
11 Cork Insulation Co., Inc. 730 5th Ave., N.Y.
12 Western Fiber Glass Co., 739 Bryant St., SF
13 General Insulation & Rubber Corp., 1247 Main St., El Centro, Calif
14 Armstrong Cork Co., Lancaster, Penn.
15 Johns Manville Sales Corp., 22 East 40th St., N.Y.
16 Johns Manville, Pittsburg, Calif., 22 East 40th St., N.Y.
17 C.C. Moore & Co., 450 Mission St., SF
18 J.T. Thorpe & Son, Inc., 1351 Ocean Ave., Emeryville, Calif.
19 M.R. Carpenter, 907 Front St., Sacramento, Calif.
20 Phillip Care Mfg. Co., C/o General Accident Fire & Life Assur.
21 Corp., Pacific Mutual Bldg., SF
22
23
24
25
26
27
28
29
30

STATE COMPENSATION INSURANCE FUND

EXECUTIVE OFFICES • 450 McALLISTER STREET • SAN FRANCISCO 1

EARL R. HOWARD
R. A. YOUNG
H. C. MILLER
DONALD GALLAGHER
J. H. LEIMBACH, M.D.

GENERAL MANAGER
ASST. GEN'L. MGR.
COMPTROLLER
CHIEF COUNSEL
MEDICAL DIRECTOR

LOS ANGELES
SACRAMENTO
SAN BERNARDINO
SAN DIEGO
SAN JOSE
STOCKTON

CHICO
EUREKA
FRESNO
LONG BEACH
OAKLAND
REDDING

July 15, 1959

IN REPLY REFER TO

Industrial Accident Commission
577-14th Street, Room 510
Oakland, California

No. 319552
John E. Swartout (Deceased)

Re: I.A.C. Claim No. 169-171

Gentlemen:

This matter is now set for hearing on August 3, 1959, 9:00 a.m., at 510 Thayer Building, 577-14th Street, Oakland, California.

In the last few weeks we have received a number of communications from various persons indicating that there is some serious doubt as to whether the information with regard to prior employments as set forth in the letter from the Department of Health, Education and Welfare, Social Security Administration, dated March 29, 1956, is a complete and correct statement of the actual employers of the deceased, John E. Swartout, for the periods indicated therein.

In addition we are informed by Dr. Hinshaw's office that he in all probability will be unavailable for purposes of testifying on August 3, 1959. The appearance of Dr. Hinshaw is necessitated by the refusal of the various party defendants to accept his medical reports in lieu of his oral testimony.

Therefore, for the reasons stated above, it is respectfully requested that the hearing now scheduled for August 3, 1959 be canceled and the matter ordered taken off calendar. This order will enable your defendants to attempt to gain more complete and exact information as to the various employers of the deceased, John E. Swartout, and effect a proper service upon these persons.

Very truly yours,

Albert Sennett
ALBERT SENNETT
Attorney

AS:fr

c - See next page

July 15, 1959

- c - Mrs. John E. Swartout
P. O. Box 8053 - Broadway Station
Sacramento 18, California
- c - Smith & Parrish
501 Financial Center Bldg.
Oakland 12, California
- c - Mundet Cork Corp.
7101 Tonnelle Ave.
North Bergen, N. J.
- c - Harry A. Dutton, Inc.
532 Natoma St.
San Francisco 3, California
- c - Dutton Asbestos Co.
532 Natoma St.
San Francisco 3, California
- c - Dutton Asbestos & Supply Co.
532 Natoma St.
San Francisco 3, California
- c - Western Asbestos Co.
675 Townsend St.
San Francisco 3, California
- e - Bay City Asbestos Co., Ltd.
251 - 5th Ave.
Oakland, California
- c - Cork Insulation Co.
750 - 5th Ave.
New York City, N. Y.
- c - Western Fibrous Glass Prod. Co.
739 Bryant St.
San Francisco 7, California
- c - General Insulation & Rubber Corp.
1247 Main Street
El Centro, California
- c - Armstrong Cork Co.
Lancaster, Pennsylvania
- c - Johns Manville Sales Corp.
22 East 40th St.
New York City, N. Y.
- c - C. C. Moore & Co.
450 Mission St.
San Francisco 5, California
- c - J. T. Thorpe & Son, Inc.
1351 Ocean Ave.
Emeryville, California
- c - M. R. Carpenter
907 Front St.
Sacramento, California
- c - S. R. Dutton Co.
532 Natoma St.
San Francisco 3, California

Industrial Accident Commission

3.

July 15, 1959

- c - Bay Cities Asbestos Co.
251 - 5th Ave.
Oakland, California
- c - Western Fiberglass Supply Co. *1000 1/2 Montgomery St.*
739 Bryant St.
San Francisco 7, California
- c - General Insulation Co.
San Francisco, California
- c - The Asbestos & Magnesite Materials Co.
Chicago, Illinois
- c - Asbestos Supply Co. of Seattle
Fairbanks, Alaska
- c - Phillip Care Mfg. Co. *per letter*
Cincinnati, Ohio
- c - Tacoma Asbestos Co. of Tacoma
Anchorage, Alaska
- c - Jamar-Olmen Co. of Chicago
Terre Haute, Indiana
- c - Johns Manville
Trenton, New Jersey
- c - Insulation Services of Minn.
Terre Haute, Indiana
- c - Hunter Manufacturing Corp. of Bristol Pa.
Tucson, Arizona
- c - Johns Manville
Pittsburg, California
- c - Pillsbury, Madison & Sutro
225 Bush St.
San Francisco 4, California
- c - Aetna Insurance Co.
220 Montgomery St.
San Francisco 4, California
- c - Industrial Indemnity Exchange
155 Sansome St.
San Francisco 4, California
- c - Industrial Indemnity Co.
350 Sansome St.
San Francisco 4, California
- c - Pacific Indemnity Co.
114 Sansome St.
San Francisco 4, California
- c - Liberty Mutual Insurance Co.
216 Pine St.
San Francisco 4, California
- c - Employers Mutual Liab. Ins. Co. of Wisconsin
114 Sansome St.
San Francisco 4, California
- c - Travelers Ins. Co.
315 Montgomery St.
San Francisco 4, California

Industrial Accident Commission

4.

July 15, 1959

- c - Standard Accident Ins. Co.
417 Montgomery St.
San Francisco 4, California
- c - Pacific Employers Ins. Co.
505 Montgomery St.
San Francisco 11, California
- c - Pacific Employers Ins. Co.
3770 Piedmont Ave.
Oakland, California
- c - Sedgwick, Deter, Moran & Arnold
100 Bush St.
San Francisco 4, California
- c - Leonard, Hanna & Brophy
100 Bush St.
San Francisco 4, California
- c - Claims Department

Spoke in wheel

MORE
YORK
ARKSBURG
JLSA
ST. LOUIS
CHICAGO
LOS ANGELES
ATLANTA
PITTSBURGH
SAN FRANCISCO
NEW ORLEANS
MIAMI
PHILADELPHIA

ALEXANDER & ALEXANDER
INCORPORATED
INSURANCE

AVERAGE ADJUSTERS CONSULTING ACTUARIES
2225 NORTH CHARLES STREET, BALTIMORE 18, MD.

TELEPHONE
TUXEDO 9-4304
BELL SYSTEM
TELETYPE BA 562
CABLE ADDRESS
"ALEXBLUE"

Settled

July 27, 1960

Mr. William L. Hughes, Manager
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Travelers Policy No. RUB 4490459

Dear Sir:

Please note disposition made of the following claim:

Date of Accident: January 6, 1955
Claimant: John E. Swartout
Location: Various cities in California
Claim No. : B-7814289
Disposition: \$46.50 - Expense

Remarks:

Very truly yours,

ALEXANDER & ALEXANDER, INC.

G. H. Finley

LOSS DEPARTMENT

Indicate Whether:

Workmen's Comp. X
Auto Liability B.I.
P.D.
General Liability B.I.
P.D.

sjm



V.L. P. SHRIVER AGENCY, General Agent

1801 UNION BANK BLDG.

PITTSBURGH 22, PENNSYLVANIA

Phone Grant 1-7800

May 24, 1960

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Dick:

Re:- Claim No. 96-C-728796
John E. Swartout vs
Armstrong Cork Company

We are in receipt of advices from the Standard Accident Insurance Company that they have closed their file on the above claim. The only expense incurred by them was some legal costs.

As you probably know, on March 4, 1958 the California Industrial Accident Commission awarded Bergit A. Svartout against the State Compensation Insurance Fund a total sum of \$2,555.00 for the period January 11, 1955 to June 5, 1956. Further award was made to her against the Fund of \$7,000.00, commencing June 6, 1956. Additional awards were made for burial expense in the sum of \$400.00 and \$35.00 medical costs to Dr. Allen E. Moe.

With kindest personal regards, we are

Very truly yours,

V. L. P. SHRIVER AGENCY

D. B. Edgar

May 27, 1960

Mr. D. B. Edgar
V.L.P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Dear Dave:

Subject: John E. Swartout

We appreciate and thank you for your May 24 letter concerning the disposition of the Swartout claim.

Glad Standard Accident only incurred some legal expense.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

JEZ

RCS

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. S.F. 169-171

BERGIT A. SWARTOUT,

Applicant

-vs-

MUNDET CORE CORPORATION, et al;
AETNA INSURANCE COMPANY, et al;

Defendants.

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
APR 29 1960

ORDER DISMISSING FOR LACK OF
PROSECUTION DEFENDANT STATE
COMPENSATION INSURANCE FUND'S
"PETITION FOR REAPPORTIONMENT
OF OCCUPATIONAL DISEASE AWARD
AND CONTRIBUTION AMONG PARTIES"

Notice of Intention to Dismiss "Petition for Reapportionment"
for Lack of Prosecution having been filed and served APRIL 18, 1960,
and no objection thereto having been received within the time set
forth in said Notice.

IT IS HEREBY ORDERED That Defendant STATE COMPENSATION
INSURANCE FUND'S "PETITION FOR REAPPORTIONMENT" be, and it is
hereby, dismissed for lack of prosecution.

MAILED AT OAKLAND 4-29-60---KH:

DANIEL C. MURPHY, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

All parties of record

RLS

BALTIMORE
NEW YORK
CLARKSBURG
TULSA
ST. LOUIS
CHICAGO
LOS ANGELES
ATLANTA
PITTSBURGH
SAN FRANCISCO
NEW ORLEANS
MIAMI
PHILADELPHIA

ALEXANDER & ALEXANDER
INCORPORATED
INSURANCE

AVERAGE ADJUSTERS CONSULTING ACTUARIES
2225 NORTH CHARLES STREET, BALTIMORE 18, MD.

TELEPHONE
TUXEDO 9-4304
BELL SYSTEM
TELETYPE BA 582
CABLE ADDRESS
"ALEXBLUE"

April 21st, 1960

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Mr. Schiedt:

Claim B 7814289
J. E. Swartout
Workmen's Compensation
California

We have your letter of April 19th in which you advise that Petitions for Dismissal were filed by the Pacific Employers Insurance Company and the Mountain State Mutual Casualty Company, and inquiring if the Travelers will file a similar Petition.

We have written to their Oakland, California Office today and just as soon as we have their reply, the information will be forwarded to you.

Sincerely

ALEXANDER & ALEXANDER, INC.

J. H. Finley
GENERAL ADJUSTER

R

RLS

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE
STATE OF CALIFORNIA
CLAIM NO. SF 169-171

APR 22 1960 WLM

BERNIT A. SWARTOUT,

Applicant,

vs.

PETITION FOR DISMISSAL

ARMSTRONG CORK COMPANY,
EMPLOYERS MUTUAL LIABILITY
INSURANCE COMPANY OF WISCONSIN,

Defendants.

Comes now EMPLOYERS MUTUAL LIABILITY INSURANCE COMPANY OF WISCONSIN, a defendant herein and petitions for a dismissal with prejudice for want of prosecution.

On or about June 10, 1958, the Commission issued its Decision After Reconsideration in favor of the applicant against Western Asbestos Company and its carrier, State Compensation Insurance Fund. State Compensation Insurance Fund has filed a Petition for Re-apportionment but no prosecution has been had of the claim since the matter was ordered off calendar on July 21, 1959.

Your petitioner, since July 21, 1959, has been required to maintain legal files and legal reserves, and is still required to maintain such legal files and legal reserves at considerable cost and expense and without apparent cause or reason.

Your petitioner alleges that the defendants Western Asbestos Company and State Compensation Insurance Fund have not shown due diligence in proceeding with their claim.

WHEREFORE, it is respectfully prayed that this matter be dismissed with prejudice for want of prosecution and lack of insurance coverage by this carrier for the defendant Armstrong Cork Company.

Respectfully submitted this ____ day of April, 1960.

J. Patrick Goodwin
Atty. for Petitioner

1 PARTIES SERVED:

- 2 Sergit A. Swartout, P.O. Box 8053, Broadway Station, Sacramento
3 Smith, Parrish, Paduck & Clancy, Financial Center Bldg., Oakland
4 Pillsbury, Madison & Sutro, 225 Bush St., San Francisco
5 Aetna Insurance Co., 220 Montgomery St., San Francisco
6 Industrial Indemnity Exchange, 155 Sansome St., San Francisco
7 Industrial Indemnity Co., 350 Sansome St., San Francisco
8 Pacific Indemnity Co., 114 Sansome St., San Francisco
9 Liberty Mutual Ins. Co., (Mr. Walter Kohn), 216 Pine St., S.F.
10 Travelers Insurance Co., 315 Montgomery St., San Francisco
11 Standard Accident Ins. Co., 417 Montgomery St., San Francisco
12 Pacific Employers Ins. Co., 244 Pine St., San Francisco
13 Sedgwick, Detert, Moran & Arnold, 100 Bush St., San Francisco
14 Hanna & Brophy, 100 Bush St., SF & 1540 San Pablo, Oakland
15 State Compensation Insurance Fund, 450 McAllister St., S.F.
16 General Accident Fire & Life Assur. Corp., Pac. Mutual Bldg., S.F.
17 Henry G. Sanford, Hobart Bldg., San Francisco
18 Hadsoll, Hurman & Bishop, 405 Montgomery St., San Francisco
19 Mundet Cork Corp., 7107 Tonnelle Ave., North Bergen, N.Y.
20 Harry A. Dutton, Inc., 532 Katoma St., San Francisco
21 S. R. Dutton Co., 532 Katoma St., San Francisco
22 Dutton Asbestos & Supply Co., 532 Katoma St., San Francisco
23 Western Asbestos Co., 675 Townsend St., San Francisco
24 Bay City Asbestos Co., Ltd., 251 5th Ave., Oakland
Cork Insulation Co., Inc., 730 5th Ave., N.Y.
Western Fiber Glass Co., 739 Bryant St., San Francisco
General Insulation & Rubber Corp., 1247 Main St., El Centro, Calif.
Armstrong Cork Co., Lancaster, Penn.
Johns Manville Sales Corp., 22 East 40th St., N.Y.
Johns Manville, Pittsburg, Calif., 22 East 40th St., N.Y.
C. C. Moore & Co., 450 Mission St., San Francisco
J. T. Thorpe & Son, Inc., 1351 Ocean Ave., Searsville, Calif.
A. R. Carpenter, 907 Front St., Sacramento, Calif.
Phillip Care Mfg. Co., C/O General Accident Fire & Life Assurance
Corp., Pacific Mutual Bldg., San Francisco

20

21

22

23

24

VERIFICATION

J. PATRICK GOODWIN declares under penalty of perjury:

That he is an attorney for the petitioner herein and that
he is more familiar with the facts alleged in the foregoing petition
than are any of the officers of the petition and for that reason
he makes this verification on behalf of said petitioner; that he
has read the foregoing petition and the same is true of his own
knowledge and belief except as to those matters alleged on informa-
tion or belief and as to those matters he believes them to be true.

Dated this ____ day of April, 1960, in San Francisco,
California.

T 5-13-60

April 19, 1960

Mr. Christopher Hoff
Alexander & Alexander, Inc.
2225 N. Charles Street
Baltimore 18, Md.

Dear Chris:

Subject: Claim #B-7814289
J. E. Swartout
Workmen's Compensation - Calif.

We enclose a Photostat of a Petition for Dismissal filed April 5 by the attorneys for the Pacific Employers Insurance Company in the claim of Bergit A. Swartout.

Today we got a copy of a similar petition filed by the Mountain State Mutual Casualty Company for the same reason. The typing is too faint to duplicate, but Travelers received a copy.

We are wondering if Travelers will file a similar Petition for Dismissal. Travelers included a \$2,000 reserve in the last three retrospective ratings, and Travelers coverage only involved 84 hours of work in California by the late Mr. Swartout.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

JEZ

Enclosure

RCS

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF
CALIFORNIA

CLAIM NO. OF 169-171

BERGIE A. SWARTZ,)

Applicant, (

vs.)

MURPHY CORP CORPORATION, et al., (

ATLANTIC INSURANCE COMPANY, et al.,)

Defendants. (

PETITION FOR DISMISSAL FOR LACK OF PROSECUTION

COMES NOW the defendant C. C. MOORE & COMPANY, and its carrier, MOUNTAIN STATE MUTUAL CASUALTY COMPANY and submits this Petition for Dismissal for Lack of Prosecution and in support thereof alleges and aver as follows:

That on June 10, 1958 your Commission issued its decision after reconsideration awarding certain temporary disability indemnity benefits and death benefits against the defendant Western Asbestos Company and its insurance carrier State Compensation Insurance Fund in favor of Bergie A. Swartz, the applicant herein.

That said decision was based on applicant's election to proceed against the defendant Western Asbestos Company and its insurance carrier, the State Compensation Insurance Fund, under the provisions of Labor Code Section 5500.5.

On December 26, 1958 the Western Asbestos Company and State Compensation Insurance Fund filed a petition for reapportionment of occupational disease award and contribution among parties defendant. A hearing on this petition was set for March

1 16, 1959, in Oakland, California. When the matter
2 for hearing at the request of counsel for Western
3 Company and State Compensation Insurance Fund
4 reset for a full morning on August 3, 1959.

5 On July 15, 1959, counsel for Western Air
6 and State Compensation Insurance Fund requested
7 of the hearing of August 3, 1959, and that an or
8 der off calendar be issued. In response to th
9 your Commission, on July 21, 1959, issued a notifi
10 cation of hearing and an order taking off calendar.

11 That counsel for your petitioner is inform
12 ed and on the basis of such information and belief
13 this petitioner has a meritorious defense because
14 ment by the employer was outside the State of Ca
15 lifornia. Informant submitted to counsel for the State Fund as follows:

16 1. Mr. Swartout was employed by C. C. A.
17 January 2, 1950 and his work was completed on Jan
18 Mr. Swartout was employed as an asbestos worker
19 through the Asbestos Workers Union in El Paso, Tex.

20 2. Mr. Swartout worked three full weeks
21 week, during the above period. His rate of pay
22 hour. In addition, Mr. Swartout was paid eight
23 times to the job and eight times traveling time
24 El Paso. Mr. Swartout's pay was \$90.00 a week for
25 three weeks, plus sixteen hours travel time, in
26 \$36.00, or a total of \$306.00.

27 This petitioner and his insurance carrier
28 by this conduct in that they are being unreasonably

1 to carry reserves in the case in spite of the want of prosecution
2 and in spite of a valid and meritorious defense to the claim.

3 WHEREFORE, it is respectfully requested that your
4 Commission issue an order dismissing the petition for reap-
5 portionment of occupational disease award and contribution among
6 parties defendant with prejudice.

7 Dated - April 13, 1960.

8 Respectfully submitted

9
10 HAROLD L. WILSON & ASSOCIATES

11 MAILED AT SAN FRANCISCO 4/13/60

12 Bergit A. Stewart, 70 Box 8051, Broadway Station, Sacramento
13 Smith, Parrish, Maduck & Glancy, 2 Financial Center Bldg., Oakland
14 Pillsbury, Madison & Sutro, 225 Bush St., San Francisco
15 Astor Insurance Co., 220 Montgomery St., San Francisco
16 Industrial Indemnity Exchange, 150 Sansome St., San Francisco
17 Industrial Indemnity Co., 350 Sansome St., San Francisco
18 Pacific Indemnity Co., 114 Sansome St., San Francisco
19 Liberty Mutual Insurance Co. (Mr. Walter Kohn), 216 Pine St., S. F.
20 Employers Mutual Liab. Ins. Co. of Wisconsin, 114 Sansome St., S. F.
21 Travelers Insurance Co., 315 Montgomery St., S. F.
22 Standard Accident Ins. Co., 417 Montgomery St., S. F.
23 Pacific Employers Ins. Co., 244 Pine St., SF
24 Legwick, Lebert, Moran & Arnold, 100 Main St., SF
25 Hanna & Brophy, 100 Bush St., SF and 1540 San Pablo Ave., Oakland
26 State Compensation Insurance Fund, 450 McAllister St., San Francisco
27 General Accident Fire & Life Assur. Corp., Pacific Mutual Bldg., SF
28 Henry O. Sanford, Robert H. G., SF
29 Sullivan & Filippi, 315 Montgomery St., SF
30 Sunset Park Corp., 7107 Tenthille Ave., North Bergen, N.Y.
Harry A. Dutton, Inc., 532 Natoma St., S. F.
H. F. Dutton Co., 532 Natoma St., SF
Dutton Asbestos & Supply Co., 532 Natoma St., SF
Western Asbestos Co., 675 Townsend St., SF
Bay City Asbestos Co., Ltd. 251 5th Ave., Oakland
Cook Insulation Co., Inc., 740 5th Ave., N.Y.
Western Fiber Glass Co., 719 Bryant St., SF
General Insulation & Rubber Corp., 1047 Main St., El Centro, Calif.
Armstrong Cork Co., Lancaster, Penn.
Johns Manville Sales Corp., 22 East 40th St., N.Y.
Johns Manville, Pittsburg, Calif., 72 East 40th St., N.Y.
C. C. Moore & Co., 450 Mission St., SF
J. T. Thorne & Co., Inc., 1351 Ocean Avenue, Emeryville, Calif.
H. I. Carpenter, 927 Front St., Sacramento, Cal.
Phillip C. Reiff Co., c/o General Accident Fire & Life Assur.
Corp., Pacific Mutual Bldg., S. F.

6/10/8 Award against last emp. w. Asbestos

1/16/8 W Asbestos + State Fund - filed Apportionment Petition

3-16-59 hearing apportionment of Liability

7/15/9 WA + SF req cancellation of apor hearing
+ That the mtr be taken off-calendar

8-3-59 State Fund at 3-16-59 hearing requested that hearing
← this hearing was cancelled by State Fund
and SF requested taken off calendar

11/20/9 PE asked WA & SF to have
hearing or dismiss pet

100. PE is pet comm for same thing

1-6-55

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
2 CLAIM NO. SF 169-171

3
4 BERGIT A. SWARTCUT,

5 Applicant,

6 -vs-

7 MURDET CORK CORPORATION, et al;
8 AETNA INSURANCE COMPANY, et al.

9 Defendants.

PETITION FOR DISMISSAL
FOR LACK OF PROSECUTION

10
11 COMES NOW, defendant Pacific Employers Insurance
12 Company, with this its Petition For Dismissal For Lack of
13 Prosecution in the above entitled matter and in this connection
14 shows:

15 .. That on June 10, 1958, your Commission issued its
16 Decision After Reconsideration, awarding certain temporary
17 disability indemnity benefits and death benefits against the
18 defendants, Western Asbestos Company and its insurance carrier,
19 State Compensation Insurance Fund, in favor of Bergit Swartcut,
20 the applicant herein.

21 That said decision was based on applicant's election to
22 proceed against the defendant, Western Asbestos Company and its
23 insurance carrier, the State Compensation Insurance Fund, under
24 the provisions of Labor Code Section 5500.5.

25 On December 26, 1958, the Western Asbestos Company and
26 State Compensation Insurance Fund filed a "Petition For Re-
27 apportionment Of Occupational Disease Award And Contribution
28 Among Parties Defendant". A hearing on this Petition was set
29 for March 16, 1959, on Oakland, California. When the matter
30 was called for hearing at the request of counsel for Western
31 Asbestos and State Compensation Insurance Fund, the matter was
32 re-set for a full morning on August 3, 1959.

1 On July 15, 1959, counsel for Western Asbestos
2 Company and State Compensation Insurance Fund requested a
3 cancellation of the hearing of August 3, 1959, and that Order
4 taking the matter off-calendar be issued. In response to
5 this request, your Commission, on July 21, 1959, issued a
6 Notice of Cancellation Of Hearing, And Order Taking Off-
7 Calendar.

8 Although defendants Western Asbestos Company and State
9 Compensation Insurance Fund were requested, on November 20, 1959,
10 to dismiss the Petition For Apportionment or have the matter
11 set down for hearing, nothing has been done to bring the
12 matter to a final decision.

13 Your petitioner is prejudiced by this conduct in that
14 it is being unnecessarily obliged to carry reserves on the
15 case, in spite of the want of prosecution, even though it feels
16 that it has a meritorious defense to the claim.

17 WHEREFORE, it is respectfully requested that your
18 Commission issue its Order dismissing the Petition For Reapportion-
19 ment Of Occupational Disease Award And Contribution Among Parties
20 Defendant, with prejudice.

21

22

Respectfully submitted,

23

MULLEN & FILIPPI,
Attorneys for

24

PACIFIC EMPLOYERS INSURANCE COMPANY

25

26

BY /s/JOHN J. O'BRIEN
JOHN J. O'BRIEN

27

28

29 Dated at San Francisco, California,
30 this 5th day of April, 1960.

31

32

1 PARTIES SERVED:

- 2 Bergit A. Swartout, P.O. Box 8053, Broadway Station, Sacramento
3 Smith, Parrish, Paduok & Olney, Financial Center Bldg., Oakland
4 Pillsbury, Madison, & Sutro, 225 Bush St., San Francisco
5 Aetna Insurance Co., 220 Montgomery St., San Francisco
6 Industrial Indemnity Exchange, 155 Sansome St., San Francisco
7 Industrial Indemnity Co., 350 Sansome St., San Francisco
8 Pacific Indemnity Co., 114 Sansome St., San Francisco
9 Liberty Mutual Ins. Co., (Mr. Walter Kohn), 216 Pine St., S.F.
10 Employers Mutual Liab. Ins. Co. of Wisconsin, 114 Sansome St., S.F.
11 Travelers Insurance Co., 315 Montgomery St., San Francisco
12 Standard Accident Ins. Co., 417 Montgomery St., San Francisco
13 Pacific Employers Ins. Co., 244 Pine St., San Francisco
14 Sedgewick, Detert, Moran & Arnold, 100 Bush St., San Francisco
15 Hanna & Brophy, 100 Bush St., SF & 1540 San Pablo Ave., Oakland
16 State Compensation Insurance Fund, 450 McAllister St., S. F.
17 General Accident Fire & Life Assur. Corp., Pac. Mutual Bldg., SF
18 Henry G. Sanford, Hobart Bldg., San Francisco
19 Hadsell, Murman & Bishop, 405 Montgomery St., San Francisco
20 Mundet Cork Corp., 7107 Tonnelles Ave., North Bergen, N. Y.
21 Harry A. Dutton, Inc., 532 Natoma St., San Francisco
22 S. R. Dutton Co., 532 Natoma St., San Francisco
23 Dutton Asbestos & Supply Co., 532 Natoma St., San Francisco
24 Western Asbestos Co., 675 Townsend St., San Francisco
25 Bay City Asbestos Co., Ltd., 251 5th Ave., Oakland
26 Cork Insulation Co., Inc., 730 5th Ave., N. Y.
27 Western Fiber Glass Co., 739 Bryant St., San Francisco
28 General Insulation & Rubber Corp., 1247 Main St., El Centro, Calif
29 Armstrong Cork Co., Lancaster, Penn.
30 Johns Manville Sales Corp., 22 East 40th St., N. Y.
31 Johns Manville, Pittsburg, Calif., 22 East 40th St., N. Y.
32 C. C. Moore & Co., 450 Mission St., San Francisco
J. T. Thorpe & Son, Inc., 1351 Ocean Ave., Emeryville, Calif.
M. R. Carpenter, 907 Front St., Sacramento, Calif.
Phillip Care Mfg. Co., C/O General Accident Fire & Life Assurance
Corp., Pacific Mutual Bldg., San Francisco

BALTIMORE
NEW YORK
CLARKSBURG
TULSA
ST. LOUIS
CHICAGO
LOS ANGELES
ATLANTA
PITTSBURGH
SAN FRANCISCO
NEW ORLEANS
MIAMI
PHILADELPHIA

ALEXANDER & ALEXANDER
INCORPORATED
INSURANCE

AVERAGE ADJUSTERS CONSULTING ACTUARIES
2225 NORTH CHARLES STREET, BALTIMORE 18, MD.

RLB
TELEPHONE
TUXEDO 9-4304
BELL SYSTEM
TELETYPE BA 582
CABLE ADDRESS
"ALEXBLUE"

August 20th, 1959

AUG 21 1959 WH

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Mr. Schiedt:

B 7814289
re: J. E. Swartout
D/A January 6, 1955

We are advised by the Oakland, California Office of the Travelers Insurance Company that this case is still pending before the Industrial Accident Commission. They state that they hope to be successful in their defense of the case, but as in all these asbestosis cases, they never are sure of that. Consequently, they are carrying reserves of \$2,000 fatal, \$80. funeral expense and \$250.00 other expense.

The Travelers further state that the litigation appears to be nearing its end and that they trust to have a favorable award within the next several months.

The above is for your information and file.

Sincerely

ALEXANDER & ALEXANDER, INC.

St. D. D. D.
GENERAL ADJUSTER

R

File

INTER
OFFICE COMMUNICATION

Armstrong
CONTRACTING AND SUPPLY
CORPORATION

August 6, 1959

To J. S. Taylor, San Francisco
From J. E. Zeller, Lancaster
Subject Disability and Death Claim
John E. Swartout

AIR MAIL

As requested in your July 30 memo, we have turned over all papers attached thereto concerning the death claim for John E. Swartout to R. C. Schiedt of the parent company's Insurance Department. Bear in mind that the only information which they can furnish from Lancaster is the dates of employment, contract numbers on which the employee worked and earnings. Any other information including a witness required by Hanna and Brophy will have to be supplied by your office.

DB

R. C. Schiedt, Insurance Department, Armstrong Cork Company, Lancaster, Pa. ✓

NOTE TO R. C. SCHIEDT:

We attach Taylor's memo of July 30 and the attachments thereto for your reference.

3

RCS

INTER
OFFICE COMMUNICATION

July 30, 1959

Armstrong
CONTRACTING AND BUILDING
CORPORATION

write 8/5/59

J

To J. E. Zeller, Lancaster
From J. S. Taylor, San Francisco
Subject Disability and Death Claim
John E. Swartout
Armstrong Cork Company

I am enclosing correspondence from Hanna & Brophy dated March 24, 1959, my reply of April 3, 1959 and request from Hanna & Brophy for a witness dated June 23, 1959.

I have informed Mr. Schwab of Hanna & Brophy that this matter should be handled by his office direct with the Armstrong Cork Company rather than through our District Office. He did tell me this morning that the case has gone off calendar as far as the August 3rd date is concerned.

Will you please turn these papers over to the proper individual in the Armstrong Cork Company for further follow up.

DJM

WILLY
THIS
YOR
LOOKS
DEPT.
LIKE
8/3
J

JST

HANNA & BROPHY
1540 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TELEPHONE 2-5569

WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT N. MAC LEAN
JOHN A. MAC DONALD
EDWARD P. MC ALEER
HERBERT C. JENSEN
EDWARD W. KORAB

J. M. MC ELRATH
THOMAS B. RICHARDSON
DONALD V. MITCHELL
GEORGE W. BONNEY

June 23, 1959

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG.
FRESNO 21, CALIF.

SACRAMENTO OFFICE
926 J STREET
SACRAMENTO 14. CALIF.

SAN JOSE OFFICE
2000 HEDDING STREET
SAN JOSE 28. CALIF.

Armstrong Contracting & Supply Corp.
304 Shaw Road
South San Francisco, California

Attention: John S. Taylor
District Manager

Re: Bergit A. Swartout
(widow of John E. Swartout)
vs. Mundet Cork Corp., et al
I.A.C. No. 169-171

Gentlemen:

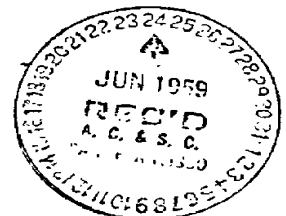
This will confirm my telephone conversation with you, in which I advised that we would like to have a witness present at the further hearing that has been set in this case, to testify with regard to the type of materials used on your jobs where the decedent was employed, as set forth in your letter of April 3, 1959. The hearing is set for all morning, beginning at 9:00 A. M., on August 3, 1959, at 510 Thayer Building, 577 - 14th Street, Oakland. I would like to have the witness present about 10:00 A. M., as I would like to see how the hearing is going before putting our witness on.

I would appreciate definite advice from you as soon as possible as to whether you will be the witness or whether some other individual will be present.

Very truly yours,

Very truly yours,
 Ivan A. Schwab

IAS:ER
c.c. Travelers Ins. Co.
Oakland (B-7814289)
c.c. Standard Accident Ins. Co.
840 West San Bruno Ave.
San Bruno, Calif. (96 C 728796)





CONTRACTING AND SUPPLY
CORPORATION *Subsidiary of Armstrong Cork Company*

SOUTH SAN FRANCISCO, CALIFORNIA
April 3, 1959

Mr. Ivan A. Schwab
Hanna & Brophy
1540 San Pablo Avenue
Oakland 12, California

Subject: Bergit A. Swartout
(Widow of John E. Swartout)
vs. Mundet Cork Corp., et al
I.A.C. No. 169-171

Dear Mr. Schwab:

Please refer to your letter dated March 24, 1959 on the above subject.

There is no affirmative evidence that can be produced at this time to establish that there was no exposure to asbestos during or any part of the employment of Mr. John E. Swartout by the Armstrong Cork Company. Our contract records on the jobs in question have been destroyed in keeping with our normal retention schedule.

On each of the jobs referred to in your letter, with the exception of No. 1, Carnation Company, Stockton a Magnesia product which contained 15% or less Asbestos long fibers was used. On the Carnation milk job, cork covering containing no asbestos fiber was used. The additional fact that on the Pacific Gas & Electric Company job, the Alaska work, and the Bethlehem Pacific Shipyard work a goodly portion of the materials used contained no asbestos fiber. Such materials as cork covering, and mineral wool products were also employed.

With respect to his employment in Alaska, no written contract was involved in the hiring. He was hired through Local No. 97 of the International Association of Heat and Frost Insulators and Asbestos Workers of Anchorage, Alaska, on an open call for men. The type of work involved applying insulation on a government housing project at Fort Richardson near Anchorage, Alaska. Materials installed consisted of Fiberglas, and Wool Felt pipe covering for the Heating and Plumbing systems. A small quantity

Mr. Ivan A. Schwab

- 2 -

April 3, 1959

of 85% Magnesia block was used for the hot water storage tank.

We hope the above information will be of service to you. Please let us know if there is any further assistance we can give.

Very truly yours,

ARMSTRONG CONTRACTING & SUPPLY CORP.

John S. Taylor
District Manager

DJM

cc: Travelers Insurance Company, Oakland
Standard Accident Insurance Company, San Francisco
R. C. Schmidt, Jr. Insurance Dept., Armstrong Cork Co., Lancaster

WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT H. SCHIECK
ROBERT N. MAC LEAN
JOHN A. MAC DONALD
EDWARD P. MC ALEER
HERBERT C. JENSEN
EDWARD W. KORAB

J. M. MC ELRATH
THOMAS B. RICHARDSON

LAW OFFICES OF
HANNA & BROPHY
1540 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TELEPHONE 2-5569

March 24, 1959

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4,
CALIFORNIA

FRESNO OFFICE
SECURITY BANK BLDG.
FRESNO 21,
CALIFORNIA

SACRAMENTO OFFICE
926 J STREET
SACRAMENTO 14,
CALIFORNIA

SAN JOSE OFFICE
586 NO. FIRST STREET
SAN JOSE 12,
CALIFORNIA

Armstrong Cork Company
304 Shaw Road
South San Francisco, Calif.

Attention: Mr. J. S. Taylor

Re: Bergit A. Swartout
(Widow of John E. Swartout)
vs. Mundet Cork Corp., et al
I.A.C. No. 169-171

Gentlemen:

In the above entitled matter, we appear both for Standard Accident Insurance Company and Travelers Insurance Company, who at different times were your insurance carrier. Proceedings were brought against State Compensation Insurance Fund, as insurance carrier for Western Asbestos Company. The Industrial Accident Commission held that John E. Swartout contracted asbestosis, which caused disability and death, and made an award against the State Fund. It now seeks to apportion the total liability, by establishing that there was also exposure to asbestos while the decedent was working for other employers.

We are interested in knowing whether there is affirmative evidence that can be produced that will establish that there was no exposure to asbestos during all, or any part, of the employment for Armstrong Cork Company. The employments in which we are interested are as follows:

1. In March and May, 1949. Apparently, this was at the Carnation Company, Stockton.
2. In June, 1951. This apparently was at the Contra Costa Steam Plant of Pacific Gas & Electric Company.
3. June, 1951, through September, 1951. This was in Alaska. With respect to this employment, we want to know whether it was under a written or an oral contract, and whether the contract of employment was made in the State of California, or in Alaska, as well as information as to the type of work done.

Page two - 3/24/59
Re: John E. Swartout, Decd.

4. From December 27, 1954, to January 16, 1955. This was work on five ships at Bethlehem Pacific Shipyards in San Francisco.

Enclosed please find a copy of a letter from your Mr. Schiedt, Jr., dated September 18, 1956. The letter mentions the use of magnesia and cork on the different jobs mentioned. The case against Western Asbestos Company was established through the testimony of a Mr. Wayne Kelly, business representative of Local 16 of the Asbestos Workers Union, who testified that Western Asbestos Company used a Johns-Manville product which was 85% magnesium and 15% asbestos.

Will you please advise whether you used a magnesia product which also contained asbestos. We also want to know whether there are work orders or other business records of any sort through which it can now be established that cork and other non-asbestos types of insulation were used on each of the jobs on which Mr. Swartout worked, and the name of the person who has those records under his control and could testify at any further hearing.

Very truly yours,

Ivan A. Schiedt

IAS:ER

Enc.

c.c. Travelers Ins. Co.
Oakland (B-7814289)
c.c. Standard Acc. Ins. Co.
S.F. (96 C 728796)

ARMSTRONG
Cork Company

Lancaster, Penna

September 1

Mr. D. B. Edgar
V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Dear Dave:

Subject: John A. Swartout
Workmen's Compensation Claim
Ref: 96-6 728705

As requested in your letter of September 10, we enclose letters signed by the individual in charge of our pay records. The first letter covers the years 1949 and 1950 when Standard Accident Insurance Company was Armstrong's carrier, and the second letter covers the years 1951 and 1952 when Armstrong was insured with Travelers.

Mr. Swartout worked for Armstrong during 1949 at the Union Company, Stockton, California. Both magnesia and covering were used on this job. In 1951, he worked at Contra Costa Steam Plant at Antioch, California, which operated by the Pacific Gas and Electric Company of San Francisco, California. Magnesia pipe covering was used on this job.

Mr. Swartout's employment in 1954 and 1955 occurred at Bethlehem Shipyards, 20th and Illinois Streets, San Francisco, California, which were operated by the Bethlehem Pacific Coast Steel Corporation, San Francisco, California. Magnesia pipe and block insulation, corkboard and cork pipe insulation were used on this job. Incidentally, this contract covered five hulls which has never been commissioned and the work therefore, according to our interpretation, would not be under the jurisdiction of the Longshoremen's and Harbors Workers' Compensation Act.

Apparently Judson Fleming, 176 Elm Street, San Bruno, California, is the only one still in our employ who worked with Swartout. In addition, Mr. J. S. Taylor, Manager of our San Francisco Office, could supply any additional details regarding working conditions, etc.

Since the law firm of Leonard, Hanna & Brophy is handling defense for both Standard and Travelers, we assume the enclosed wage statements on our letter head would suffice.

SSD: [illegible]
Enclosures: [illegible]
Alexander & Alexander, Inc. (s) R. C. Schiedt, Jr.
P.S. - We are returning all insurance Department
of Mr. Platt's correspondence

Sincerely yours,



CONTRACTING AND SUPPLY
CORPORATION Subsidiary of Armstrong Cork Company

APR 6 1959

SOUTH SAN FRANCISCO, CALIFORNIA
April 3, 1959

Mr. Ivan A. Schwab
Hanna & Brophy
1540 San Pablo Avenue
Oakland 12, California

Subject: Bergit A. Swartout
(Widow of John E. Swartout)
vs. Mundet Cork Corp. et al
I.A.C. No. 169-171 1-10-55

Dear Mr. Schwab:

Please refer to your letter dated March 24, 1959 on the above subject.

There is no affirmative evidence that can be produced at this time to establish that there was no exposure to asbestos during or any part of the employment of Mr. John E. Swartout by the Armstrong Cork Company. Our contract records on the jobs in question have been destroyed in keeping with our normal retention schedule.

On each of the jobs referred to in your letter, with the exception of No. 1, Carnation Company, Stockton a Magnesite product which contained 15% or less Asbestos long fibers was used. On the Carnation milk job, cork covering containing no asbestos fiber was used. The additional fact that on the Pacific Gas & Electric Company job, the Alaska work, and the Bethlehem Pacific Shipyard work a goodly portion of the materials used contained no asbestos fiber. Such materials as cork covering, and mineral wool products were also employed.

With respect to his employment in Alaska, no written contract was involved in the hiring. He was hired through Local No. 97 of the International Association of Heat and Frost Insulators and Asbestos Workers of Anchorage, Alaska, on an open call for men. The type of work involved applying insulation on a government housing project at Fort Richardson near Anchorage, Alaska. Materials installed consisted of Fiberglas, and Wool Felt pipe covering for the Heating and Plumbing systems. A small quantity

Mr. Ivan A. Schwab

- 2 -

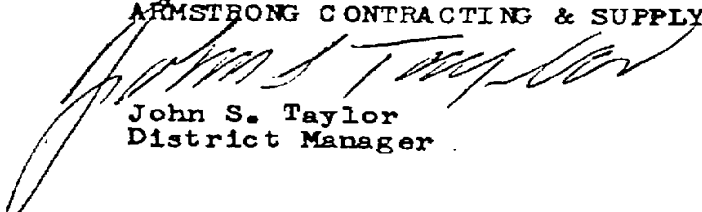
April 3, 1959

of 85% Magnesia block was used for the hot water storage tank.

We hope the above information will be of service to you. Please let us know if there is any further assistance we can give.

Very truly yours,

ARMSTRONG CONTRACTING & SUPPLY CORP.


John S. Taylor
District Manager

DJM

cc: Travelers Insurance Company, Oakland
Standard Accident Insurance Company, San Francisco
R. C. Schmidt, Jr. Insurance Dept., Armstrong Cork Co., Lancaster

November 12, 1958

Mr. Howard P. Wittel
Toenmeier Adjustment Service, Inc.
39 N. Duke Street
Lancaster, Pa.

Dear Mr. Wittel:

Subject: John E. Swartout (Deceased)
vs. Armstrong Cork Company
File #158-C-2853

In your letter of November 10, you requested employment information on the above-named individual on behalf of Employers Mutual Liability Insurance Company. We have no objection to releasing this information to Employers Mutual, but we do wish to add that Mr. Swartout was never employed at our South Gate, California manufacturing plant where Employers Mutual was carrying the workmen's compensation insurance.

Here is the information you requested.

| <u>Week Ending</u>
<u>Date</u> | <u>No. of</u>
<u>Days</u> | <u>Hours</u> | <u>Wages</u> | <u>State</u> |
|-----------------------------------|------------------------------|--------------|--------------|------------------|
| 3/6/49 | 1 | 8 | \$ 17.28 | Stockton, Calif. |
| 3/13/49 | 2 | 16 | 34.56 | " " |
| 3/20/49 | 5 | 40 | 86.40 | " " |
| 3/27/49 | 5 | 40 | 86.40 | " " |
| 3/8/49 | 5 | 40 | 86.40 | " " |
| 5/15/49 | 3 | 24 | 51.84 | " " |
| 5/22/49 | 3 | 24 | 51.84 | " " |
| 6/3/51 | 2 | 16 | 41.36 | Antioch, Calif. |
| 6/10/51 | 5 | 40 | 103.40 | " " |
| 6/17/51 | 2 | 16 | 41.36 | " " |
| 6/24/51 | 6 | 40*14 | 215.25 | Alaska |
| 7/1/51 | 7 | 40 23 | 499.25 | " |
| 7/8/51 | 4 | 24 12 | 229.25 | " |
| 7/15/51 | 6 | 40 14 | 295.75 | " |
| 7/22/51 | 6 | 40 14 | 295.75 | " |
| 7/29/51 | 6 | 40 14 | 295.75 | " |
| 8/5/51 | 6 | 40 14 | 295.75 | " |
| 8/12/51 | 6 | 40 14 | 295.75 | " |
| 8/19/51 | 5 | 28 12 | 243.25 | " |
| 8/26/51 | 6 | 40 14 | 295.75 | " |
| 9/2/51 | 6 | 40 14 | 295.75 | " |
| 9/9/51 | 6 | 40 14 | 295.75 | " |

Mr. Howard P. Wittal

- 2 -

November 12, 1958

| <u>Week Ending</u>
<u>Date</u> | <u>No. of</u>
<u>Days</u> | <u>Hours</u> | <u>Wages</u> | <u>State</u> |
|-----------------------------------|------------------------------|--------------|--------------|-----------------------|
| 6/13/54 | 4 | 32 | \$113.60 | Washington |
| 6/20/54 | 5 | 40 | 152.00 | " |
| 6/27/54 | 5 | 40 | 152.00 | " |
| 7/4/54 | 4 | 28 | 108.40 | " |
| 1/2/55 | 7 | 40*16 | 226.80 | San Francisco, Calif. |
| 1/9/55 | 7 | 40 24 | 277.20 | " " " |
| 1/16/55 | 1 | 4 | 12.60 | " " " |

*Additional Overtime Hours

A complete review of our records reveals that the above data covers the entire employment of Mr. Swartout with Armstrong Cork Company.

Very truly yours,

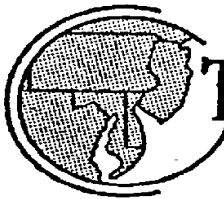
ARMSTRONG CORK COMPANY

Wallace B. Hofferth
Assistant General Manager
Insurance Department

JEZ

HOME OFFICE
Philadelphia 6, Pa.

BRANCH OFFICES
Chambersburg, Pa.
Erie, Pa.
Harrisburg, Pa.
Lancaster, Pa.
Oil City, Pa.
Pittsburgh 22, Pa.
Warren, Pa.
York, Pa.



TOENSMEIER *Adjustment Service, Inc.*
INSURANCE ADJUSTERS
for the Companies

39 NORTH DUKE STREET

LANCASTER, PENNA.

F. T. THEOBALD
RESIDENT MANAGER

PHONE EXPRESS 4-3728
NIGHT EXPRESS 4-4206

BRANCH OFFICES

Easton, Md.
Hagerstown, Md.
★
Newark 2, N. J.
Trenton, N. J.
★
New York 38, N. Y.
★
Wilmington, Del.

November 10, 1958

NOV 11 1958 W14

Armstrong Cork Co.
Liberty & Charlotte Sts.
Lancaster, Pa.

Attention: Mr. Hofferth

Re: John E. Swartout (deceased)
v. Armstrong Cork Co.
Our File #158-C-2853

Dear Mr. Hofferth:

You will remember that I discussed this case with you personally in your office several weeks ago. I am now advised by the company that the only thing that will safeguard their position in this case is a letter from you, setting forth all the dates of Mr. Swartout's employment with your good Company, the places of employment, occupational duties, earnings and a brief statement to the effect that this data covers all of the employment of this claimant after a complete review of your personnel records.

I am sorry to burden you with this additional request, but the Employers Mutual Liability Insurance Company states this is to be presented to the proper authorities for final disposition of the matter.

Thank you very much for your cooperation.

Very truly yours,

Toensmeier Adjustment Service, Inc.

Howard P. Wittel
Howard P. Wittel,
Adjuster

HPW/hy

I talked with Charles Skomski
by phone April 7 regarding his
letter of April 3, 1958. He admitted
he had few details about the
Swartout case and did not
know why Employer Winters
wanted additional information.

He said he would write his
California office and suggest
they write us direct regarding the
information needed.

I told Skomski, Swartout
was out in our custody from Novemb
28, 1950 to January 24, 1951.

67 E Sf

4-7-58

We never heard from his California offi
6-19-58

PCS

EMPLOYERS MUTUAL LIABILITY INSURANCE COMPANY OF WISCONSIN
EMPLOYERS MUTUAL FIRE INSURANCE COMPANY
HOME OFFICE: WAUSAU, WISCONSIN



Address Reply To
EMPLOYERS MUTUALS OF WAUSAU
300 MOUNT LEBANON BOULEVARD
PITTSBURGH 34, PENN.
LOCUST 3-2224

Armstrong Cork Company
Liberty and Scarlet Streets
Lancaster, Pennsylvania

FILE: 44988 NEW

April 3, 1958

Attention: Mr. R. C. Schiedt, Jr.
Insurance Department

John E. Swartout v.
Armstrong Cork Company
Claim A42-35421

Gentlemen:

Persuant to my telephone conversation with Miss Sukits in your Pittsburgh office, I am writing to you directly.

✓ The matter that I am writing to you about concerns certain information that I need about a former employee, whose name is John E. Swartout. His social security number is 472-10-9876. It is my understanding that this man was not employed at your South Gate Plant in California; nevertheless, I will still need certain information to properly defend and action by the widow of John E. Swartout.

This former employee has been given an award in the sum of \$7,000, which is a death benefit. He has also received a sum of \$2,550 for temporary disability due to an occupational disease of asbestosis. This award of course includes a \$400 burial expense sum. This award was granted by Referee Purvis of the California Commission. I am now interested in obtaining the following information: (1) The exact dates of employment, (2) Location of the plant or plants during the course of employment and (3) The type of occupation he pursued. I would appreciate this information to embrace the period from November 28, 1950 until January 24, 1951. I will need this information even though this employee was not employed at a plant which we insure. It is my understanding that we only insured your South Gate Plant.

Will you please send me this information at your earliest convenience.

Thanking you for your cooperation, I remain

Yours very truly

Charles Skomski
CSm

CSkomski P dm

Claim Department

4136 APR 11 1958

105
1-10-55
April 2, 1958

Mr. Charles Scoski
Employers Mutual of Wausau
300 Mt. Lebanon Boulevard
Pittsburgh 34, Pa.

Dear Mr. Scoski:

Subject: John E. Swartout - 1/10/55
472-10-9876

A letter from our district office in Pittsburgh states you requested certain information concerning Mr. Swartout and left our employee, who was taking your phone call, under the impression that Swartout's employment was covered by an Employers Mutual workmen's compensation policy.

Prior to 1952, Armstrong Cork Company did have a policy with Employers Mutual covering our manufacturing operations in South Gate, California. Mr. Swartout, however, was not employed at our South Gate Plant.

Very truly yours,

ARMSTRONG CORK COMPANY

R. C. Schiedt, Jr.
Insurance Department

JEZ

Miss R. M. Sukits, AC&S, Pittsburgh



CONTRACTING AND SUPPLY

CORPORATION Subsidiary of Armstrong Cork Company

POST OFFICE BOX 436
24TH STREET AND ALLEGHENY RIVER
PITTSBURGH 30, PENNSYLVANIA

March 31, 1958

APR 2 1958 WLH

William L. Hughes
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Mr. Hughes:

Subject: John E. Swartout
472-10-9876

admitted
died 5.30-56
1-10-55 last employed
by A

Last Friday, March 28, 1958, I received a phone call from a Mr. Charles Scovski of Employers Mutual of Wausau. Mr. Scovski told me that his company insured Armstrong Cork. He asked me if I could possibly obtain for him information concerning the subject employee.

Mr. Swartout is from the state of California. He worked for us from November 28, 1950 to January 24, 1951. The reason for his termination was illness. The following is a list of the information requested:

1. Exact dates of employment.
2. Location of Work.
3. Type of occupation.
4. Where he worked from Nov. 28, 1950 to Jan. 24, 1951.

As this information is not available at this office, I would appreciate any help you can give me regarding this problem. If you would wish to forward information directly to Mr. Scovski, his address is:

Mr. Charles Scovski
Employers Mutual of Wausau
300 Mt. Lebanon Blvd.
Pittsburgh 34, Penna.

Phone: LO. 3-2224

Very truly yours,

ARMSTRONG CONTRACTING & SUPPLY CORP.

R. M. Sukits

(Miss) R. M. Sukits

RS

BALTIMORE
NEW YORK
CLARKSBURG
TULSA
ST. LOUIS
CHICAGO
LOS ANGELES
ATLANTA
PITTSBURGH
SAN FRANCISCO
NEW ORLEANS
MIAMI

ALEXANDER & ALEXANDER
INCORPORATED
INSURANCE

AVERAGE ADJUSTERS CONSULTING ACTUARIES
2225 NORTH CHARLES STREET, BALTIMORE 18, MD.

TELEPHONE
TUXEDO 9-4304
BELL SYSTEM
TELETYPE BA 582
CABLE ADDRESS
"ALEXBLUE"

July 29th, 1957

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Mr. Schiedt:

File B 7814289
John E. Swartout
D/A ~~September 6, 1955~~
Workmen's Compensation

Calif - 1/10/55

Supplementing our letter to you of July 3rd in the above case, we are advised by the Travelers that they are carrying \$2,000 fatal estimate, \$80.00 funeral expense and \$250. loss expense reserves, suggested by their attorneys after hearing the evidence on this case.

While it is true, the widow has elected to pursue the last carrier on the risk, this does not preclude the last carrier from joining all other carriers in a subsequent action to seek contribution from them, and this is the reason the Travelers are carrying the reserves mentioned above.

Trusting this information will bring you up-to-date,
we remain

Sincerely

ALEXANDER & ALEXANDER, INC.

Sue Rosemary
LOSS DEPARTMENT

R

*7/30/57
WCH*

BALTIMORE
NEW YORK
CLARKSBURG
TULSA
ST. LOUIS
CHICAGO
LOS ANGELES
ATLANTA
PITTSBURGH
SAN FRANCISCO
NEW ORLEANS
MIAMI

55 700
RCS
ALEXANDER & ALEXANDER
INCORPORATED
INSURANCE

AVERAGE ADJUSTERS CONSULTING ACTUARIES
2225 NORTH CHARLES STREET, BALTIMORE 18, MD.

TELEPHONE
TUXEDO 9-4304
BELL SYSTEM
TELETYPE BA 582
CABLE ADDRESS
"ALEXBLUE"

July 3rd, 1957

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Mr. Schiedt:

Workmen's Compensation Claim
John E. Swartout - 1/10/55
Claim B 7814289 - California

We have today received a reply to our various inquiries regarding the above claim.

The Travelers state that there has been nothing new since December 6th, the final decision not having been handed down as yet. At the hearing before the last one, it developed that the applicant, as he had the right to do, elected to pursue his remedy exclusively with the State Compensation Insurance Fund, and the Liberty Mutual Insurance Company.

The company has not furnished us with the amount of reserve they are carrying and we are waiting for this information. Just as soon as it is available, we will again communicate with you.

Sincerely

ALEXANDER & ALEXANDER, INC.

C. T. T. T. T.
LOSS DEPARTMENT

R

died 5-30-5

50 VI - 126 1
T 8-7-57

June 28, 1957

Mr. Christopher Hoff
Alexander & Alexander, Inc.
2225 North Charles Street
Baltimore 18, Md.

Dear Chris:

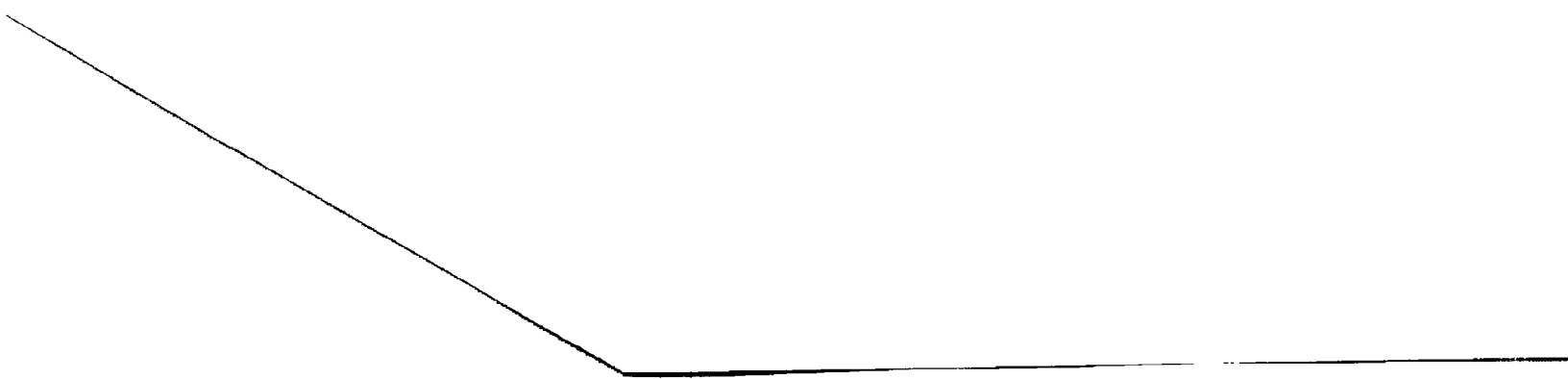
Subject: Workmen's Compensation Claim
John E. Swartout - 1/10/55
Claim #B-7814289 - California

May 28 we wrote you regarding the above subject. Is Travelers carrying a reserve or has the claim been closed without payment?

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

JEZ



X

~~T 6-26-57~~
W.C. all Ex. Plaster
155

May 28, 1957

Mr. Christopher Hoff
Alexander & Alexander, Inc.
2225 North Charles Street
Baltimore 18, Md.

Dear Chris:

Subject: Workmen's Compensation Claim
John E. Swartout - 1/10/55
Claim #B-7814289 - California

A hearing on the above case was held December 6, 1956, with more than a dozen employers named as defendants in this death claim involving possible asbestosis.

Will you give us the present status of this claim and show amounts paid or reserves established.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

JEZ

W. C. 11
55 022 11 12
T ~~4-14-57~~
~~5-28-57~~
March 28, 1957

Mr. G. H. Finlay
Alexander & Alexander, Inc.
2225 North Charles Street
Baltimore 18, Md.

Dear Mr. Finlay:

Subject: Workmen's Compensation Claim
John E. Swartout - 1/10/55
Claim #B-7814289 - California

We are wondering if you heard the results of the hearing held December 6, 1956, on the above claim.

Very truly yours,

ARMSTRONG CORK COMPANY

R. C. Schiedt, Jr.
Insurance Department

JEZ



RC5
732:47
V.L. P. SHRIVER AGENCY, General Agent

1801 UNION BANK BLDG.
PITTSBURGH 22, PENNSYLVANIA
Phone Grant 1-7800

November 14, 1956

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Dick:

Re: 96-C 728 796
Armstrong Cork Company
John E. Swartout - 1/10/56

Thank you for your letter of November 13th, advising that hearing in the captioned case has been changed from Room 206, 1531 Webster Street to Room 510, 577-14th Street.

*11/15/56
Row*
We have notified the Claims Office of the Standard Accident in San Francisco.

Very truly yours,

V. L. P. SHRIVER AGENCY

[Signature]
D. B. Edgar

DBE:map

November 13, 1956

Mr. James E. Fannon
Alexander & Alexander, Inc.
2225 North Charles Street
Baltimore 18, Maryland

Dear Jim:

Subject: Claim #55 SF 169-171 - Bergit A. Swartout ✓

We received notice from the California Industrial Accident Commission that the hearing to be held in Oakland, December 6, 1956, has been changed from Room 206, 1531 Webster Street to Room 510, 577 - 14th Street.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

SSD

November 13, 1956

Mr. D. B. Edgar
V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Dear Dave:

Subject: Claim #55 SF 169-171 - Bergit A. Swartout

We received notice from the California Industrial Accident Commission that the hearing to be held in Oakland, December 6, 1956, has been changed from Room 206, 1531 Webster Street to Room 510, 577 - 14th Street

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

SBD



V.L. P. SHRIVER AGENCY, General Agent

1801 UNION BANK BLDG.
PITTSBURGH 22, PENNSYLVANIA
Phone Grant 1-7800

November 5, 1956

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

NOV 6 1956 W H

Dear Dick:

Re: 96-C 728 796
Armstrong Cork Company 11/10/56
John E. Swartout

Thank you for your letter of November 2,
advising that hearing in the captioned case will
be held on December 6, 1956.

We have notified the San Francisco Claims
Office of the Standard Accident.

Very truly yours,

V. L. P. SHRIVER AGENCY

D. B. Edgar
D. B. Edgar

DBE:map

November 2, 1956

Mr. James E. Pannon
Alexander & Alexander, Inc.
2225 North Charles Street
Baltimore 18, Maryland

Dear Jim:

Subject: Claim #55 SF 169-171

We received notice from the California Industrial Accident Commission that a hearing will be held in Oakland, California, December 6, 1956, in connection with the claim of Bergit A. Swartout, widow of John E. Swartout.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

SSD

November 2, 1956

Mr. D. B. Edgar
V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Dear Dave:

Subject: Claim #55 SF 169-171

We received notice from the California Industrial Accident Commission that a hearing will be held in Oakland, California, December 6, 1956, in connection with the claim of Bergit A. Swartout, widow of John E. Swartout.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

SSD



V. L. P. SHRIVER AGENCY, General Agent

1801 UNION BANK BLDG.
PITTSBURGH 22, PENNSYLVANIA
Phone Grant 1-7800

September 19, 1956

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Mr. Schiedt:

Re: 96C 728 796
✓ Armstrong Cork Co. D/A - 1/10/55
✓ John E. Swartout

Thank you very much for your letter of
September 18th, with enclosures.

We have referred the entire matter to
the San Francisco Claims Office of the Standard
Accident Insurance Company.

Very truly yours,

V. L. P. SHRIVER AGENCY

Dave
D. B. Edgar

DBE:map

September 18, 1956

Mr. D. B. Edgar
V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Dear Dave:

Subject: John E. Swartout
Workmen's Compensation Claim
Ret 96-C 728 796

As requested in your letter of September 10, we enclose two letters signed by the individual in charge of our payroll records. The first letter covers the years 1949 and 1951 when Standard Accident Insurance Company was Armstrong's insurance carrier, and the second letter covers the years 1954 and 1955 when Armstrong was insured with Travelers.

Mr. Swartout worked for Armstrong during 1949 at the Carnation Company, Stockton, California. Both magnesia and cork covering were used on this job. In 1951, he worked at the Contra Costa Steam Plant at Antioch, California, which was operated by the Pacific Gas and Electric Company of San Francisco, California. Magnesia pipe covering was used principally on this job.

Mr. Swartout's employment in 1954 and 1955 occurred at the Bethlehem Shipyards, 20th and Illinois Streets, San Francisco, California, which were operated by the Bethlehem Pacific Coast Steel Corporation, San Francisco, California. Magnesia pipe and block insulation, corkboard and cork pipe insulation were used on this job. Incidentally, this contract covered five hulls which had never been commissioned and the work, therefore, according to our interpretation, would not come under the jurisdiction of the Longshoremen's and Harbor Workers' Compensation Act.

Apparently Judson Fleming, 176 Elm Street, San Bruno, California, is the only one still in our employ who worked with Swartout. In addition, Mr. J. S. Taylor, Manager of our San Francisco Office, could supply any additional details regarding working conditions, etc.

Since the law firm of Leonard, Hanna & Brophy is handling the defense for both Standard and Travelers, we assume the two enclosed wage statements on our letterhead would suffice.

Sincerely yours,

R. C. Schiedt, Jr.
Insurance Department

SSD
Enclosures

P. S. - We are returning all of Mr. Platt's correspondence

Alexander & Alexander, Inc.
J. S. Taylor, Bldg. Insul., San Francisco

September 18, 1956

Mr. J. E. Fannon
Alexander & Alexander, Inc.
2225 North Charles Street
Baltimore 18, Maryland

Dear Jim:

Subject: John E. Swartout
Travelers' Claim #B-7814289

We believe the enclosed correspondence is self-explanatory. However, if you have any questions, let us know.

Sincerely yours,

R. C. Schiedt, Jr.
Insurance Department

ESD

Enclosures

September 18, 1956

Standard Accident Insurance Co.
417 Montgomery Street
San Francisco 4, California

Gentlemen:

Our payroll records disclose the following employment of John E. Swartout in California by Armstrong Cork Company.

| <u>Week</u> | <u>No. of Hours</u> | <u>Wages</u> |
|--------------------------|---------------------|--------------|
| Feb. 28 to March 6, 1949 | 8 | \$ 17.28 |
| March 7 to 13, 1949 | 16 | 34.56 |
| March 14 to 20, 1949 | 40 | 86.40 |
| March 21 to 27, 1949 | 40 | 86.40 |
| May 2 to 8, 1949 | 40 | 86.40 |
| May 9 to 15, 1949 | 24 | 51.84 |
| May 16 to 22, 1949 | 24 | 51.84 |
| May 23 to June 3, 1951 | 16 | 41.36 |
| June 4 to 10, 1951 | 40 | 103.40 |
| June 11 to 17, 1951 | 16 | 41.36 |

Very truly yours,

ARMSTRONG CORK COMPANY

G. R. Halm
Payroll Supervisor

SSD

V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

September 18, 1956

Travelers Insurance Company
315 Montgomery Street
San Francisco 4, California

Gentlemen:

Our payroll records disclose the following employment of John E. Swartout in California by Armstrong Cork Company.

| <u>Week</u> | <u>No. of Hours</u> | | <u>Wages</u> |
|-------------------------------|---------------------|-----------|--------------|
| | <u>ST</u> | <u>OT</u> | |
| Dec. 27, 1954 to Jan. 2, 1955 | 40 | 16 | \$226.80 |
| Jan. 3 to 9, 1955 | 40 | 24 | 277.20 |
| Jan. 10 to 16, 1955 | 4 | - | 12.60 |

Very truly yours,

ARMSTRONG CORK COMPANY

G. R. Helm
Payroll Supervisor

88D

1941 S.F.
John 1950 Pittsburgh

1947 - Sgt SF + Alaska
1954 Richmond

John E.
Swartout
California

Full earnings cards
and give to Schmitt
for his use.

Assigned by the individual
 in charge of the Zenger account
 California employment in 1944
 Station " " " 1945
 a large

names & addresses of any witnesses
 now available to testify with
 regard to working conditions

direct exposure
 work done in open or confined
 spaces, materials used
 asbestos
 fiber glass
 etc.

| | | | |
|----------|-----------|---|----------|
| 10000.00 | Comd. | 4 | 25000.00 |
| 4000.00 | Financial | | 5000 |
| 2500.00 | Eng. | | 25000 |

270 059 Bethlehem Pacific Coast
Steel Corp. San Francisco, Calif
5 ships
Magnesia Life Covering
Glass Cloth Finish

Bethlehem
Shipyard
20% and 10%
San Francisco, Calif.
Woolfelt Life Covering
Glass Cloth Finish

contract requested
L.S. certificates
but O. claims
they were not
correct.
Cork Life Covering
Light & Heavy Duty
Magnesia Block
Corkboard

46207

Carnation Co
Stockton, Calif

Cork Covering
Magn. Life Covering

2.5. Taylor

over

46 445 X1

Pacific Gas & Electric Co
San Fran. Calif.

at

Contra Costa Steamship Co
Berkeley Calif.

1.149 Life Covering
and Blocks

Wain Felt

They were not commissioned
rescue

John E. Swanton

| Date | Contract # | Name | State | Local No. | Address |
|---------|------------|------------------|--------|-------------|---|
| 3-6-49 | 46207 | W.H. Deckers | Calif | 561-12-3940 | 454 N. Laurel, Monterey, Calif |
| 3-13-49 | 46207 | same | " | | |
| 3-20-49 | 46207 | Jack Friend | " | 516-03-7247 | 615 Fall St., San Francisco, Calif |
| 3-27-49 | 46207 | John J. Speers | " | 557-05-0792 | Box 632, Suisun, Calif. |
| 5-8-49 | 46207 | same 3 | " | | |
| 5-15-49 | 46207 | Jack Friend | " | 516-03-7247 | |
| 5-22-49 | 46207 | James H. Stivers | " | 557-03-4193 | 114 Columbia Ave Richmond City, Calif. |
| 6-3-51 | 46445 XI | same 2 | " | | |
| 6-10-51 | 46445 XI | worked alone | " | | |
| 6-17-51 | 46445 XI | worked alone | " | | |
| 1-2-55 | 270059 | Art McQuire | Calif. | 442-01-1118 | 434 S. 2nd St., Richmond, Calif. |
| 1-9-55 | 270059 | R. Richardson | " | 568-28-7616 | 1559 Sonoma Ave., San Francisco, Calif. |
| 1-16-55 | 270059 | same 2 | " | | |
| | | worked alone | " | | |
| | | ✓ Graham Fleming | Calif. | 556-03-3180 | 176 Elm St., San Bruno, Calif. |
| | | John Richardson | " | 552-03-5599 | 240 Bearstone, San Mateo, Calif. |
| | | same | " | | |
| | | same | " | | |



V.L. P. SHRIVER AGENCY, General Agent
1801 UNION BANK BLDG.
PITTSBURGH 22, PENNSYLVANIA
Phone Grant 1-7800

September 10, 1956

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Penna.

SEP 11 1956

Dear Dick:

Re:- 96-C 728 796
Armstrong Cork Co.
John E. Swartout

We are enclosing copy of letter dated September 5, 1956 which we received from the Standard Accident Insurance Company's San Francisco, California Claims office, together with the correspondence mentioned therein.

You will note that our Attorneys need a wage statement on a letterhead of the Armstrong Cork Company; signed by the individual in charge of the payroll records from which the data is taken. Also that this wage statement should cover only the California employment in 1949 and the nine days worked in California in 1951. The Alaska employment should not be included.

It would be appreciated if you could furnish the information as set forth in the postscript of the Standard Accident Insurance Company's letter dated September 5, 1956.

With your reply, would you kindly return the enclosed correspondence, and thanking you, we are

Very truly yours,

V. L. P. SHRIVER AGENCY

D. B. Edgar

encls.

STANDARD ACCIDENT INSURANCE COMPANY

San Francisco Branch Office
417 Montgomery St.
San Francisco, 4, California

Phone EXbrook 2-6036

September 5, 1956

V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pennsylvania

Re: 96-C 728 796
Armstrong Cork Co.
John E. Swartout

Gentlemen:

We duly received and thank you for your letter of August 14, 1956.

We now inclose herewith the original of our attorney's letter to us of September 4, 1956, our letter to them of August 23, 1956, the original of the wage statement in question and a copy of their report of the hearing.

Will you please note specifically from our attorney's letter of September 4, 1956, that they need a wage statement on the letterhead of Armstrong Cork Co. and that it must be signed by the individual in charge of the payroll records from which the data is taken and they also wish the report to cover only the California employment in 1949 and the nine days worked in California in 1951 and should not include any part of the Alaska employment.

We would greatly appreciate it if you would obtain this requested information from our assured and forward it to us and at the same time return to us the papers attached to this letter.

Very truly yours,

(sgd) L. W. Platt
Manager, Claim Department

P.S.:— Will you please call to the assured's attention Page 3 of our attorney's Hearing Report and near the bottom of the page where they refer to Standard Accident Insurance Co. and ask that they find out the names and addresses of any

C
O
P
Y

witnesses that are now available who could testify with regard to working conditions. Note that the information should cover all factors as to dust exposure on that job, such as whether the work was done in the open or in confined areas, whether the materials used were asbestos, fiber glass, cork, or other materials, whether masks were worn, and everything else that bears upon the extent and severity of the exposure to dust. Would you please urge the assured to give us all possible information in that regard. We also note from the wage statement that Mr. Swartout worked for the assured nine days in California during 1951 in the month of June. Can the assured please tell us on what job he worked in California at that time and the same information re working conditions.

(sgd) L. W. Platt

REPORT OF INDUSTRIAL ACCIDENT COMMISSION HEARING

8-24-56 mp

(LEONARD, HANNA & BROPHY - 1100 Bush Street, San Francisco 4 - YUkon 2-6077)

Half-Day Hearing

By Ivan A. Schwab

Lone Hearing ☐ Group Hearing ☐

To Standard Accident Insurance Co.

Your Claim No. 960728796

417 Montgomery Street

Assured: Armstrong Cork Company

San Francisco

Employee: John E. Swartout

Referee Roy O. Purvis Place Oakland

Date 8-15-56 IAC No. 169-171

Bergit A. Swartout

3000 Merrywood Drive, Sacramento

(Applicant)

(Address)

Smith & Parrish

Financial Center Bldg., Oakland

(Applicant's Attorney)

(Address)

John Lewis appearing

| STIPULATIONS | ITEMS | ISSUES | EXHIBITS FILED |
|--|--|--------|-------------------------------|
| | Employment | | Social Security records - |
| | Occupation | | IAC Exhibit |
| | Earnings | | Death certificate |
| | Birth Date | | Autopsy report - |
| | Insurance Coverage | | Dr. C. M. Blumenfeld |
| | Injury AOE-COE | | Rep. Dr. Allan E. Moe 8-13-56 |
| | Benefits Provided | | Bill Dr. Allan E. Moe |
| Medical: ☒ All ☐ | Benefits Sought | | |
| ☐ Some ☐ None ☐ | Compensation | | |
| | Temporary | | |
| | Permanent | | |
| Compensation: | Medical | | |
| | Past | | |
| | Future | | |
| | Litigation Costs | | |
| | Death Cases | | |
| | Proximate Cause | | |
| | Dependency | | |
| | Burial Expense | | |
| Other Issues or Special Defenses | Statute of Lim. Prejudice Jurisdiction | | |

WITNESSES

Applicant

Disposition: Continued to be reset

Probable decision: See reverse

Recommended reserves: Compensation \$ 300.00

Medical \$ 300.00

Action requested of you now: Investigation as set forth on report of hearing.

(Please see reverse for detailed comment)

This case is an asbestosis claim which gave us much concern prior to the date of the hearing. The employment record attached to the application showed a great deal of out-of-state employment. The applicant had not filed much medical evidence, but all of that which had been filed indicated rather definitely that death was due to asbestosis. Each of the four defendants represented by this office had some employment in the State of California, and while in each instance the period of employment was rather short, it looked very much as though this was a case where there was so much out-of-state employment that our clients would be the major defendants even though those periods of employment were short. When we got to the hearing and started taking appearances things looked even worse, for many of the appearances were special appearances for out-of-state employment and nothing else.

Our appearances were as follows:

Standard Accident Insurance Company, insurance carrier for
Armstrong Cork Company - 1/1/49 - 12/31/51

Travelers Insurance Company, insurance carrier for
Armstrong Cork Company - 1/1/52 - 1/10/55 (last date
of employment)

Johns-Manville Sales Corporation - 7/1/53 - 7/1/54

Industrial Indemnity Company, insurance carrier for
Bay City Asbestos Company - 1/31/48 - 1/31/49

Industrial Indemnity Exchange, insurance carrier for
Western Fiber Glass Company - 8/9/48 - 8/9/49

Other defense appearances were as follows:

M. J. Conklin, for State Compensation Insurance Fund,
insurance carrier for Western Asbestos Company and
M. R. Carpenter

Fred T. Jenner, for Employers Mutual Liability Insurance
Company, which had a policy for Armstrong Cork Company
at Southgate, California, from January 1, 1944 to
January 1, 1952. However, it developed that the
decedent never worked at the Southgate plant at all,
so any involvement of Armstrong Cork Company is solely
the responsibility of Standard Accident Insurance Company
and Travelers Insurance Company.

Walter Kohm, for Liberty Mutual Insurance Company, insurance
carrier for Armstrong Cork Company outside the State
of California and for C. C. Moore & Company from
May 19, 1943 to October 31, 1943, but the decedent was
not employed by C. C. Moore & Company during that
period.

Nelson Barry of Hadsell, Murman & Bishop made a special
appearance for C. C. Moore & Company and its insurance
carrier in the State of New Mexico, Mountain States
Mutual Insurance Company. The applicant was employed
by C. C. Moore & Company in New Mexico only from
January 9, 1950 to January 27, 1950.

Frank J. Filippi of Mullen & Filippi, for Pacific Employers
Insurance Company, insurance carrier for J. P. Thorpe &
Son, Inc. from September 30, 1938 to January 1, 1952.

Travelers Insurance Company. The letter received from Armstrong Cork Company of July 11, 1956 shows that the employment from December 27, 1954 through January 10, 1955 was on ship repair work at the Bethlehem Shipyard in San Francisco. This gives us a defense of lack of jurisdiction as such work would be under the Longshoremen's and Harbor Workers' Compensation Act. We have learned from experience in other cases that this can be a two-edged sword if a claim is lodged with the Deputy Commissioner. However, we think it to your advantage to raise a defense in this case. The fact that this was ship work already appears in the record because we have filed the earnings report of July 11, 1956 in evidence. The applicant will receive her first award against the State Fund, so I feel quite certain that she will never file with the Deputy Commissioner, and on subsequent apportionment proceedings by the State Fund, this jurisdictional defense would let you out altogether. Consequently, please contact the San Francisco office of Armstrong Cork Company and see if they have records so that they can give you a signed report showing the name of the ship on which the decedent worked and that it was either afloat on navigable waters or that it was in the floating drydock at the Bethlehem yard. Just to make certain, the investigator should also take a statement covering the conditions of employment as set forth above for other employers.

To fully protect your interest, we remained while the widow testified. She produced a marriage certificate showing that she and the decedent were married by a Justice of the Peace at Albuquerque, New Mexico on July 5, 1939. There were no children from that marriage. It was her first marriage but the decedent had previously been married to one Sophie Oelke, who had died in Minneapolis, Minnesota about 1934 or 1935. There were no children by that first marriage.

After the marriage, the decedent worked about a year in New Mexico and then came to California about 1940. From 1940 until 1954 he worked for Western Asbestos Company and always in the State of California. They lived together in San Francisco until about 1947, when they moved to San Mateo. Later, they lived about five years in Stockton. In 1947 or 1948, they went to Chico and tried running a motel for six months but didn't like it, so the decedent went back to insulation work. In 1954, they moved to Porterville and the decedent went to work for Western Asbestos Company there.

The decedent first knew he had asbestosis in January 1955. He came up to San Francisco from Porterville just after Christmas, 1954, to take the job for Armstrong Cork Company at the Bethlehem Shipyard. She understood this was insulation work on ships. While the decedent was working on that job he became sick, so he went back to Porterville and saw Dr. Parkinson. He was in the hospital at Porterville for a while, then came home for about two weeks, and then went to the tuberculosis hospital maintained by Tulare and Kings County at Springville, California. After that, they went to Sacramento and there was further medical treatment there.

The attorney for the applicant has to show working conditions and exposure to asbestos during the periods of employment for Western Asbestos Company in the Bay Area. He proposes to do that through testimony of the union business agent who was not available on the day of this hearing. The matter was continued to be reset. We deem it advisable for the proper protection of your interests that we appear at that time. Even though proceedings had been suspended against you, that type of witness is very apt to start talking about working conditions on every employer's job of which he has knowledge.

and particularly if he has any real or fancied reason to dislike a particular employer, and we would like to be present and be sure that we can make proper objection if he starts talking about your assured.

Our bill for services to date is enclosed.

Very truly yours

IVAN A. SCHWAB

IAS:mp
Enclosure

September 5, 1956

Mr. J. E. Fannon
Alexander & Alexander, Inc.
2225 North Charles Street
Baltimore 18, Maryland

Dear Jim:

Subject: Workmen's Compensation Insurance
Travelers Policy RUB-4490459
Policy Year 1/1/55 to 1/1/56
Claim No. B-7814289
Claimant: John E. Swartout
Location of Accident: State of Calif. *D/A - 1/10/55*

Mr. Swartout worked for Armstrong Cork Company in 1949 and 1951; however, during these years we were insured with Standard Accident Insurance Company. We enclose a copy of the wage data submitted to Standard sometime ago.

In addition to the above employment, Mr. Swartout was in our employ during short periods in 1954 and 1955, during which time Travelers handled our Workmen's Compensation coverage. Our records indicate Mr. Swartout quit on January 10, 1955. His detailed employment record follows.

| <u>Week Ending Date</u> | <u>No. of Days Worked</u> | <u>Hours Worked</u> | | <u>Wages</u> | <u>Location</u> |
|-------------------------|---------------------------|---------------------|-------------|--------------|-----------------|
| | | <u>S.T.</u> | <u>O.T.</u> | | |
| 6/13/54 | 4 | 32 | - | \$113.60 | Washington |
| 6/20/54 | 5 | 40 | - | 152.00 | Washington |
| 6/27/54 | 5 | 40 | - | 152.00 | Washington |
| 7/4/54 | 4 | 28 | - | 108.40 | Washington |
| 1/2/55 | 7 | 40 | 16 | 226.80 | California |
| 1/9/55 | 7 | 40 | 24 | 277.20 | California |
| 1/16/55 | 1 | 4 | - | 12.60 | California |

Sum Tot

We are glad to see the amount of the reserves was reduced. Our files show there were approximately 13 of his former employers and 10 insurance companies listed on the Notice of Hearing of Application for Adjustment of Claim.

Yours very truly,

R. C. Schiedt, Jr.
Insurance Department

SSD

JOHN E. SWARTOUT

WAGE STATEMENT

| <u>Week Ending Date</u> | <u>No. of Days</u> | <u>Hours</u> | <u>Wages</u> | <u>State</u> |
|-------------------------|--------------------|--------------|--------------|--------------|
| 3/6/49 | 1 | 8 | \$ 17.28 | Calif. |
| 3/13/49 | 2 | 16 | 34.56 | Calif. |
| 3/20/49 | 3 | 40 | 86.40 | Calif. |
| 3/27/49 | 3 | 40 | 86.40 | Calif. |
| 3/8/49 | 3 | 40 | 86.40 | Calif. |
| 5/15/49 | 3 | 24 | 51.84 | Calif. |
| 5/22/49 | 3 | 24 | 51.84 | Calif. |
| 6/3/51 | 2 | 16 | 41.36 | Calif. |
| 6/10/51 | 3 | 40 | 103.40 | Calif. |
| 6/17/51 | 2 | 16 | 41.36 | Calif. |
| 6/24/51 | 6 | 40 *14 | 215.25 | Alaska |
| 7/2/51 | 7 | 40 23 | 439.25 | Alaska |
| 7/8/51 | 4 | 24 12 | 229.25 | Alaska |
| 7/15/51 | 6 | 40 14 | 295.75 | Alaska |
| 7/22/51 | 6 | 40 14 | 295.75 | Alaska |
| 7/29/51 | 6 | 40 14 | 295.75 | Alaska |
| 8/5/51 | 6 | 40 14 | 295.75 | Alaska |
| 8/12/51 | 6 | 40 14 | 295.75 | Alaska |
| 8/19/51 | 3 | 28 12 | 243.25 | Alaska |
| 8/26/51 | 6 | 40 14 | 295.75 | Alaska |
| 9/2/51 | 6 | 40 14 | 295.75 | Alaska |
| 9/9/51 | 6 | 40 14 | 295.75 | Alaska |

* Additional Overtime Hours

BALTIMORE
NEW YORK
CLARKSBURG
TULSA
ST. LOUIS
CHICAGO
LOS ANGELES
ATLANTA
PITTSBURGH
SAN FRANCISCO

ALEXANDER & ALEXANDER
INCORPORATED
INSURANCE
AVERAGE ADJUSTERS CONSULTING ACTUARIES
2225 NORTH CHARLES STREET, BALTIMORE 18, MD.

TELEPHONE
TUXEDO 9-4304
BELL SYSTEM
TELETYPE BA 582
CABLE ADDRESS
"ALEXBLUE"

RCS

August 29, 1956

Mr. W. L. Hughes, Manager
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

AUG 30 1956 WLH

WORKMEN'S COMPENSATION INSURANCE
Travelers Policy RUB-4490459
Policy Year 1/1/55 to 1/1/56
Claim No. B-7814289
Claimant: John E. Swartout
Location of Accident: State of Calif.

Dear Bill:

We are in receipt of advice from Mr. Latham's office stating that the above claim which occurred on January 6, 1955 was not reported to their San Francisco Claim Office until June 22, 1956, almost a year and a half later.

The company is somewhat concerned about this case because they say it involved asbestosis, therefore in order that they may have a complete record of the employment of this man will you please advise us how long Swartout was connected with Armstrong and any other pertinent information that you may have on this case.

We understand the claim was originally set up with estimates of \$10,000 Compensation, \$400.00 Funeral Expenses and \$250.00 Expense, however the claim has been revised to \$2,000. Claim with \$80.00 Funeral Expense and \$250.00 Expense

Your early advices will be appreciated.

Very truly yours,

ALEXANDER & ALEXANDER, INC.

[Signature]
Vice President - Casualty

JEF:157

July 11, 1956

JUL 16 1956 WLH

The Travelers Insurance Company
315 Montgomery Street
San Francisco 4, California

Attention: Mr. A. J. Schaefer
Supervising Adjuster

Re: B-7811289
Armstrong Cork Company
John E. Swartout - Injured
D/A 1-6-55

Dear Sir:

Please refer to your letter dated July 5 on the above subject. A search of our records has revealed the following information requested in your letter:

Mr. Swartout was employed by us as an Asbestos Worker doing insulation work on ships at the Bethlehem Shipyard, 20th & Illinois Streets, San Francisco, California. The exact dates he worked for us are as follows:

December 27, 28, 29, 30 and 31, 1954.
January 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, 1955.

The foreman on this job during Mr. Swartout's employment was Mr. Judson G. Fleming, 176 Elm Street, San Bruno, California.

Mr. Swartout quit of his own volition on January 10, 1955, and the gross earnings paid to him for the period from December 27, 1954 through January 10, 1955 were \$567.00. We have no records available to verify his alleged employment in Stockton, California, during 1949.

We do not find any evidence in our files of an Unemployment Compensation Disability claim having been filed, nor a hospital and surgical claim under our Group Insurance Policy, for this employee. By a copy of this letter we are asking our home office in Lancaster, Pennsylvania, to advise you if they have any additional information concerning this claim.

Very truly yours,

ARMSTRONG CORK COMPANY
Insulation Division

J. G. Murphy
Construction Superintendent

cc: Insurance Dept. - Lancaster

Calif. J.A. ?
John W. Swartout

52' — 55'-57.
(check 56 also) died May 30, 1956

w/c # Days Hrs. Wages State

separated
overtime

55 57.

12-27-54 — 1-10-55 B

San Francisco
Week Ending

1-2-55

1-9-55

1-16-55

John W. Swartout

Days

7

7

1

Hours

40

40

4

at

1/6

24

Wages

226.80

297.20

12.60

State

Calif.

"

"

1955

516.60



Res

V. L. P. SHRIVER AGENCY, General Agent
1801 UNION BANK BLDG.
PITTSBURGH 22, PENNSYLVANIA
Phone Grant 1-7800

August 14, 1956

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Dear Dick:

202 14 1956 WLM

Re: Claim #S-925
Armstrong Cork Company vs
John E. Swartout

1/10/55

This will acknowledge receipt of, and thank you for, your letter of the 13th, enclosing Wage Statement in connection with the captioned claim.

Per your request, said Statement has been forwarded to Mr. Platt in San Francisco.

Very truly yours,

V. L. P. SHRIVER AGENCY

B. R. Shriver
B. R. Shriver

BRS:map

August 13, 1956

*See letter to
a + a
9/5/56*

Mr. D. B. Edgar
V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Dear Dave:

Subject: John E. Swartout
Claim #96 O 728796
D/A - 1/10/55

The enclosed wage statement was requested by Mr. L. W. Platt, Manager,
Standard Accident, San Francisco, Claim Department.

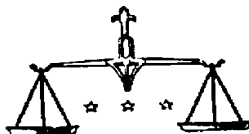
Since previous correspondence on this claim went through your office,
we are following the same procedure and request that you forward the
enclosed wage statement to Mr. Platt.

Sincerely yours,

R. C. Schiedt, Jr.
Insurance Department

SSD

Enclosures



Standard Accident Insurance Company

INCORPORATED 1884

CASUALTY INSURANCE • FIDELITY AND SURETY BONDS

ROY W. SMITH
RESIDENT VICE-PRESIDENT

SAN FRANCISCO BRANCH OFFICE

417 MONTGOMERY ST.

SAN FRANCISCO 4, CALIF.

August 6, 1956

PHONE EXBROOK 2-6036

Armstrong Cork Company
Lancaster
Pennsylvania

Gentlemen:

Re: Claim 96 C 728796
Armstrong Cork Company
Claimant: John E. Swartout

As you perhaps will recall the above captioned refers to a claim recently filed against your Company on behalf of your deceased employee John E. Swartout. Our Company is a party-defendant because of the fact that during some of the period involved we were the Workmens Compensation insurer of your Company.

8/10/56
WKO
I am trying to find out when and where Mr. Swartout worked for your Company during the periods that our Company was your Compensation insurer. I have checked with Mr. Murphy I believe it is, of your local office but he advised me that the only record he has indicates that John E. Swartout worked for your Company here in San Francisco from about December 27, 1954 to January 10, 1955.

Since we did not carry your Compensation insurance during that period and have not carried it since 1952, we are concerned with three periods prior to 1952 during which it is alleged that Mr. Swartout was in your employ. It is claimed that in 1949 he worked 2 months on the Stockton Creamery and we presume that means Stockton California. The next period is 1950 when he claims that he worked 1½ months for your Company at Pittsburg, Pennsylvania. However, we understand that your Company has always been a self-insurer in Pennsylvania so we would not be concerned with that period. The next period is 1951 when it is claimed that Mrs. Swartout worked for your Company for six months at Anchorage, Alaska.

It would therefore be greatly appreciated if you could advise us in reference to the 1949 and 1951 periods of employment and furnish us the exact dates and places worked and his earnings per day, hour and week.

Very truly yours,

L. W. Platt

L. W. Platt, Manager
Claim Department



V. L. P. SHRIVER AGENCY, General Agent
1801 UNION BANK BLDG.
PITTSBURGH 22, PENNSYLVANIA
Phone Grant 1-7800

July 17, 1956

JUL 18 1956 W H

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

Re: John E. Swartout *D/A - 1/10/55*
Asbestosis Claim

Dear Dick:

Thank you for your letter of July 16th,
enclosing additional correspondence issued by the
California Industrial Accident Commission.

We have referred the matter to the San
Francisco Office of the Standard Accident for the
necessary attention.

Very truly yours,

V. L. P. SHRIVER AGENCY

Dave
D. B. Edgar

DBE:map

July 16, 1956

Mr. J. E. Fannon
Alexander & Alexander, Inc.
2221 North Charles Street
Baltimore 18, Maryland

Dear Jim:

Subject: John E. Swartout - 11/11/55
Asbestosis Claim

We enclose a copy of additional correspondence issued by the Industrial Accident Commission of the State of California in connection with the claim of John E. Swartout, #55 SF 169-171.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

SSD

Enclosure

July 16, 1956

Mr. D. B. Edgar
V. L. P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Dear Dave:

Subject: John E. Swartout
Asbestosis Claim

We enclose a copy of additional correspondence issued by the Industrial Accident Commission of the State of California in connection with the claim of John E. Swartout, #55 SF 169-171.

Very truly yours,

R. C. Schiedt, Jr.
Insurance Department

SSD

Enclosure



V.L. P. SHRIVER AGENCY, General Agent

1801 UNION BANK BLDG.
PITTSBURGH 22, PENNSYLVANIA
Phone Grant 1-7800

July 9, 1956

Mr. R. C. Schiedt, Jr.
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania

JUL 10 1956 W 14

Dear Dick:

Re: John E. Swartout
Asbestosis Claim

DA - 1/10/55

This will acknowledge receipt of your letter dated July 6th, enclosing photostatic copies of notices which you received from the California Industrial Accident Commission, in connection with the above.

We have referred the matter to the San Francisco Office of the Standard Accident Insurance Company for the necessary attention.

Thanking you, we are

Very truly yours,

V. L. P. SHRIVER AGENCY


D. B. Edgar

DBE:map

July 6, 1956

V-L P. Shriver Agency
1801 Union Bank Building
Pittsburgh 22, Pa.

Gentlemen:

Subject: John E. Swartout
Asbestosis Claim

We are enclosing photostatic copies of notices received from the Industrial Accident Commission, State of California, in connection with the application for adjustment of claim of John E. Swartout.

We are sending similar copies to Alexander & Alexander, Inc., since this man was still in our employ after 1951.

Very truly yours,

ARMSTRONG CORK COMPANY

R. C. Schiedt, Jr.
Insurance Department

SSD

Enclosures