FILE NAME: Mundet Cork (MCK)

DATE: 1961

DOC#: MCK118

DOCUMENT DESCRIPTION: WC Claim of Borden

Before the Industrial Accident Commission
of the State of California

RESCOMB E. BORDEN

Applicant

vs.

WESTERN ASBESTOS COMPANY, BAY CITY ASBESTOS COMPANY, LTD., STATE COMPENSATION INSURANCE FUND, INDUSTRIAL INDEMNITY COMPANY, and MUNDET CORK CORPORATION and W. F. ANDERSEN, doing business as ASBESTOS PRODUCTS COMPANY

Defendants

Case No. S.F. 193-770

Order Joining Parties Defendant

FILED
MAR 22 1961

Good Cause Appearing Therefor:

IT IS HEREBY ORDERED THAT

MUNDET CORK CORPORATION, and W. F. ANDERSEN, doing business as ASBESTOS PRODUCTS COMPANY

be joined as a party defendants in the above entitled cause.

Referee
INDUSTRIAL ACCIDENT COMMISSION

3-22-61 SERVICE UPON:
Union Mutual Life Ins. Co., 114 Sansome St., San Francisco 4
Rescomb E. Borden, 427 Nadina Ave., Millbrae
Donahue, Richards & Gallagher, Central Bldg., Oakland 12 (Robert C. Labor
Western Asbestos Co., 675 Townsend St., San Francisco 3
Bay City Asbestos Co., Ltd., 251 Fifth Ave., Oakland
*Mundet Corp Corp., 7101 Tonnelle Ave., North Bergen, New Jersey
*W. F. Andersen, dba Asbestos Products Co., 1131 Fifth Ave., Oakland 6
State Compensation Ins. Fund - Personal Service
Industrial Indemnity Co., 350 Sansome St., San Francisco 6
Hanna & Brophy, 100 Bush St., San Francisco 4

*Copy of application; copy of Minutes of Hearing of March 20, 1961

SEAL

GAL:gh

EXHIBIT
KN-7

Plaintiffs' Exhibit
CCS 5045

CCS 14

FILED
SEP 30 1960

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL ACCIDENT COMMISSION

RECEIVED

APPLICATION

CASE NO. 60 SF 193770

Hescomb E. Borden — Applicant
427 Madina Avenue
Millbrae, California
Social Security No. 548 03 3020

vs.

Western Asbestos Co., Bay City Asbestos Company, Ltd. — Employer
251 Fifth Avenue
Oakland, California

California State Compensation Insurance Fund 525 Golden Gate Avenue
Industrial Indemnity
350 Sansome, San Francisco, California
San Francisco, California

1. Hescomb E. Borden 1/11/03, alleges that while employed from 1933 to January 18, 1960 as an Asbestos Worker at Oakland, California, by Western Asbestos Co. he sustained injury arising out of and in the course of the employment, as follows: Prolonged inhalation of inorganic particles resulting in Asbestosis

2. California State Compensation Insurance Fund was the employer's insurance carrier on date of injury.

3. January 18, 1960, to date — None

4. Was compensation paid? No

5. Earnings at time of injury $ 162.00 @ week. The basis of pay was 4.05 per hour

6. Was medical treatment needed? Yes Who furnished treatment? Dr. Gerald Crenshaw - Not paid in full, partially paid Blue Cross - See added.

7. This application is filed to determine liability for:

a. Temporary disability Yes b. Permanent disability Yes c. Medical treatment Yes d. Medical costs Yes

e. Litigation expense Yes f.

8. None

WHEREFORE, it is requested that a time and place be fixed for hearing and that an award be made granting such relief as may be proper under the Workmen's Compensation Laws of California.

Dated at Millbrae, California, Sept 15, 1960

Hearing requested at San Francisco

Number of witnesses Six (6)

Estimated time of trial One (1) full day

Hescomb E. Borden — Applicant's signature

Robert C. Lamborn — Applicant's attorney

Central Bldg. Oakland 12, Calif. 1054 — Attorney's address

Served on: FE ✓ EEA ✓ IR ✓ FRA INS ✓ INSA

FOR OFFICE USE ONLY

By SW Date 10 3 60

3-15-61 Heard Ramina & Brophy

EXHIBIT
KN-7

Other Physicians Who Have Treated Applicant

Arthur M. Tyson - Bill paid by hospital insurance

Margaret Messinger - Bill paid in part by Blue Cross and in part by Applicant

Applicant requested permission to allow him to submit to the Commission, at a subsequent date, detailed medical reports regarding his present condition. This Application and Request is made because of the fact that Dr. Gerald Crenshaw is out of town and will not return for some time. Attached hereto is a photostat copy of Dr. Crenshaw's original short report, dated August 20, 1960.

GERARD L. CHEVALIER, M.D.

August 20, 1960

Mr. Lamborn
Central Building
Oakland, California

RE: Mr. R. E. Borden

Dear Mr Lamborn:

This is a letter to confirm the fact that it is my medical opinion that Mr. Borden has acquired a crippling respiratory condition as a result of inhalation of asbestos particles directly connected with his work [illegible] of industrial nature and I feel that steps should be taken to see that he receives continued medical care and proper compensation.

In some of the early reports and x-rays it might be had noted that this might not be an industrial disease. Of course, we had to wait until we had the final pathological reports before we could make definite diagnosis. These reports are now in our hands and we do not hesitate to state that he is definitely crippled in a respiratory way and that it is an industrial disease.

Hoping that this is the information that you desire, I remain,

Respectfully yours,

Gerard L. Chevalier, M.D.

GLC:ej

March 22, 1961

Mundet Cork Corporation
7101 Tonnelle Avenue
North Bergen, New Jersey

Re: Roscomb E. Borden v. Western Asbestos Co., et al
Claim No. SF 193-770

Gentlemen:

Please advise the name of your insurance carrier at the time of alleged employment.

We have been informed that you employed Mr. Borden. Our information came from Social Security Administration. It informed us that you made payments to Mr. Borden in the first quarter of the year 1948.

Please advise the name of the insurance carrier, and please note Labor Code Section 3711 (Labor Code of the State of California) which provides, in effect, that failure of the employer for a period of ten days to furnish a written statement (showing the name of his insurer or the manner in which the employer has complied with provisions requiring securing the payments of compensation) shall be prima facie evidence that the employer has failed or neglected in respect to the matter so required.

Please advise us at your earliest convenience in the premises.

Very truly yours,

GEORGE W. LAKE, Referee

GWL:gh

EXHIBIT
KN-7

MUNDET CORK CORPORATION

Everything made of Cork

7101 TONNELLE AVENUE, NORTH BERGEN, N. J.

RECEIVED
APR 3 1961
INDUSTRIAL ACCIDENT COMMISSION
SAN FRANCISCO OFFICE

March 28, 1961

Industrial Accident Commission
P. O. Box 603
San Francisco 1, California

Re: Rescomb E. Borden V. Western Asbestos Co.,
Claim No. SF 193-770

Gentlemen:

Please be advised that our Insurance Carrier is the Aetna Casualty and Surety Co.

Very truly yours,
MUNDET CORK CORPORATION

Robert M. Quick
Insurance Company

RMQ/ko

EXHIBIT
KN-7

Lane

LAW OFFICES OF
SEDGWICK, DETERT, MORAN & ARNOLD
100 BUSH STREET
SAN FRANCISCO 4

TELEPHONE [illegible]

RECEIVED
APR 20 1961
INDUSTRIAL ACCIDENT COMMISSION
SAN FRANCISCO OFFICE

April 19, 1961

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
APR 20 1961

Industrial Accident Commission
P. O. Box 603
San Francisco, California

Attention: George W. Lane, Referee

Re: IAC SF 193-770
Bascomb Borden vs.
Western Asbestos Company, et al

Gentlemen:

Kindly note that the Aetna Casualty & Surety Company is the Workmen's Compensation insurance carrier for the Mundet Cork Corporation.

Please also note that Sedgwick, Detert, Moran & Arnold are the attorneys representing Aetna Casualty & Surety Company.

On behalf of the Aetna Casualty & Surety Company, we wish to advise that we are raising all issues, including the Statute of Limitations, jurisdiction, laches, lack of notice, employment, medical, injury, and, we are only admitting insurance coverage by Aetna Casualty & Surety Company, for the Mundet Cork Corporation.

By a copy of this letter, we are [illegible] of all the interested parties, [illegible] the applicant and other defendants, [illegible]

Very truly yours,

SEDGWICK, DETERT, MORAN & ARNOLD

Theodore [illegible]

TFM:b

WORKMEN'S COMPENSATION APPEALS BOARD SEAL

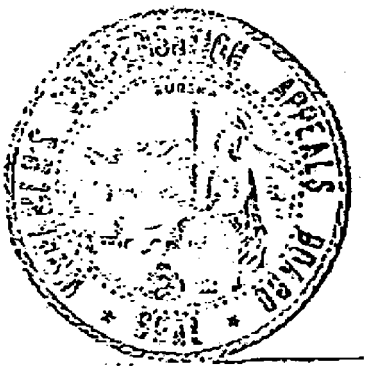
EXHIBIT
KN-7

cc: Messrs. Donahue, Richards & Gallagher
Attorneys at Law
Central Building
Oakland 12, California Attention: Robert Lamborn

Messrs. Hanna & Brophy
Attorneys at Law
111 Pine Street
San Francisco, California Attention: Ivan Schwab

State Compensation Insurance Fund
525 Golden Gate Avenue
San Francisco, California

Aetna Casualty & Surety Company
260 Montgomery Street
San Francisco, California Attention: Mildred Wayman
Your File: A-5-CC-23111



Before the Industrial Accident Commission
of the State of California

RESCOMB E. BORDEN

Applicant

vs.

WESTERN ASBESTOS COMPANY, BAY CITY ASBESTOS COMPANY, LTD., STATE COMPENSATION INSURANCE FUND, INDUSTRIAL INDEMNITY COMPANY, MUNDET CORK CORPORATION, W. F. ANDERSEN, doing business as ASBESTOS PRODUCTS COMPANY, and AETNA CASUALTY AND SURETY COMPANY *Defendants*

Case No. S.P. 193-770

Order Joining Party Defendant

Good Cause Appearing Therefor:

IT IS HEREBY ORDERED THAT

AETNA CASUALTY AND SURETY COMPANY, as insurance carrier for MUNDET CORK CORPORATION,

be joined as a party defendant in the above entitled cause.

Referee

INDUSTRIAL ACCIDENT COMMISSION

APRIL 21, 1961 FILED AND SERVED UPON:
Union Mutual Life Ins. Co., 114 Sansome St., San Francisco 4
Rescomb E. Borden, 427 Madina Ave., Millbrae
Donahue, Richards & Gallagher, Central Bldg., Oakland 12 (Robert C. Lamborn)
Western Asbestos Co., 675 Townsend St., San Francisco 3
Bay City Asbestos Co., Ltd., 251 Fifth Ave., Oakland 6
Mundet Cork Corp., 7101 Tonnelle Ave., North Bergen, New Jersey
State Compensation Ins. Fund - Personal Service
Industrial Indemnity Co., 550 Sansome St., San Francisco 6
Hanna & Brophy, 100 Bush St., San Francisco 4
*Aetna Casualty & Surety Co., 220 Montgomery St., San Francisco 6

*Copy of application

4-24-61 Sedgwick, Detert, Moran & Arnold, 100 Bush St., San Francisco 4
Attn: T. P. Niedermuller (Copy of application)

STATE COMPENSATION INSURANCE FUND

EXECUTIVE OFFICES • 525 GOLDEN GATE AVENUE • SAN FRANCISCO 1

May 1, 1961

In Re: 339181
Rebecca E. Borden

Sedgwick, Detert, Moran & Arnold
Attorneys at Law
100 Bush Street
San Francisco 4, California

Attention: Mr. Theodore P. Niedermuller

Dear Mr. Niedermuller:

In compliance with the request contained in your letter of April 19, 1961, I am sending you copies of all medical reports and records in our possession. Also included with these reports is a copy of the Department of Health, Education, and Welfare, Social Security Administration letter of November 29, 1960, covering the applicant's employment. Listed below you will find identifying data on all medical reports and records:

Gerald L. Crenshaw, M.D., August 20, 1960, addressed to Mr. Lambert.
J.H. Thomas, M.D., February 24, 1959, addressed to H.A. Hemengardt, M.D.
H.L. Helwig, M.D., September 27, 1960, addressed to George S. Lequeux, M.D.
Two pages of General History, dated January 31, 1960.
Six pages from Lien Claimant Union Mutual Life Insurance Company records consisting of:
Group Sickness and Accident Insurance Claim dated February 1, 1960 and signed by applicant.
Attending Physician's Statement, two pages, dated February 10, 1960, signed by Dr. Crenshaw.
Attending Physician's Supplementary Statement, dated March 4, 1960, signed by Dr. G.L. Crenshaw.
Attending Physician's Supplementary Statement, dated April 5, 1960, signed by Dr. G.L. Crenshaw.
Attending Physician's Supplementary Statement, dated May 15, 1960, signed by Dr. G.L. Crenshaw.
Attending Physician's Supplementary Statement, dated July 1, 1960, signed by Dr. G.L. Crenshaw.
(Mr. Lizera had the original of the above documents at the hearing of March 29, 1961, where it was agreed that photostats could be used in lieu of the originals.)

COPY

EXHIBIT KN-7

Copies of Alta Bates Hospital records consisting of forty-one (41) pages, the originals of these records were subpoenaed into evidence by Mr. Schwab at the hearing on March 20, 1961.

H. Corwin Hinshaw, M.D., December 29, 1960, addressed to Industrial Indemnity, filed by Mr. Maloney's letter of January 13, 1961.

West Coast Life Insurance Company's letter of December 5, 1960, with enclosures consisting of:
February 15, 1960 report of G.L. Crenshaw, M.D.
February 27, 1960 report of G.L. Crenshaw, M.D.

Department of Health, Education, and Welfare, Social Security Administration letter of November 29, 1960, addressed to State Compensation Insurance Fund, a copy of which was filed at the hearing on March 20, 1961.

A copy of Ivan A. Schwab's letter of April 10, 1961, enclosing H. Corwin Hinshaw's report of March 17, 1961, and George A. Watson, M.D.'s report of March 16, 1961.

Very truly yours,

WILLIAM R. LOWNDES
Attorney

WRL:tgh
Encls.

c - Donahue, Richards & Gallagher
Attorneys at Law
Central Building
Oakland 12, California
c - Hanna & Brophy
Attorneys at Law
100 Bush Street
San Francisco 4, California
c - Aetna Casualty & Surety Company
525 Montgomery Street
San Francisco 4, California
c - Union Mutual Life Insurance Company
114 Sansome Street
San Francisco 4, California
c - Hon. George W. Lane, Referee
Industrial Accident Commission
455 Golden Gate Avenue
San Francisco 2, California
Re: I.A.C. Claim No. 193-770
c - Claims Department

350 SANSOME STREET • SAN FRANCISCO 4, CALIFORNIA • YUKON 6-2000

44-3-30-61 jm

INDUSTRIAL INDEMNITY COMPANY

January 13, 1961

Industrial Accident Commission
455 Golden Gate Avenue
San Francisco, California

Re: Roscoe E. Borden vs.
Bay Cities Asbestos Co., Ltd.
I.A.C. No. 60 SF 193-770

Gentlemen:

Enclosed herewith for filing as Defendant's exhibit next in order in the above entitled matter, please find medical report from H. Corwin Hinshaw, M. D. dated December 29, 1960.

Copy of Dr. Hinshaw's report has been forwarded to the parties.

Very truly yours,

Patrick R. Malone

Patrick R. Malone,
Claims Attorney

PRMjmas
Encl.
cc: Robert C. Lumbers, Esq.
Central Building
Oakland, California

State Compensation Insurance Fund
[illegible]
San Francisco, California

EXHIBIT
KN-7

H. CORWIN HINSHAW, M.D.
NORTON C. HINSHAW, Jr., M.D.
450 SUTTER STREET
SAN FRANCISCO 8, CALIFORNIA

TELEPHONE
Union 3-7166

December 29, 1960

om: H. Corwin Hinshaw, M.D.

Industrial Indemnity
350 Sansome Street
San Francisco, California

ject: Rescomb Borden vs.
Bay Cities Asbestos Co., Ltd.
I.A.C. No. 60 SF 193-770
REPORT OF SPECIAL MEDICAL EXAMINATION

pose of the Report:

To determine Mr. Borden's present physical condition with special reference to his lung condition and the relationship between this and his employment as an asbestos worker since 1933.

upational and Clinical History:

Prior to 1933 Mr. Borden states that he had no exposure to any harmful materials so far as he knows and states that he did various types of labor since leaving high school including truck driving, cannery working, various odd jobs, etc. In 1933 he first started working for the Bay Cities Asbestos Company which was purchased by the Western Asbestos Company in about 1946, the patient states. During these subsequent 27 years he has done many types of work for the asbestos company and has been exposed to dust containing asbestos fibers, he believes, off and on throughout this period. Much of the work has been actual installation of different kinds of insulating materials and this has involved the sawing of different forms of asbestos insulation for covering of pipes, heating ducts, boilers, etc. The work has included insulation of pipes and boilers in buildings and also has included a considerable amount of work on ships and powerhouses. The work on ships has involved working in close quarters in the holds of ships where ventilation was quite inadequate, he says. He says that he has used recommended precautions including the wearing of masks whenever possible but he states that no mask is capable of getting perfect protection in his opinion.

He says that he first recalls being short of breath about 1956 or 1957 and he remembers particularly having difficulty when working on the University of California dormitories in Berkeley during 1957 when he had to walk up 9 flights of stairs. The shortness of breath which was particularly noted then has continued ever since and became steadily worse. He says that he worked almost continuously however until January 18, 1960 but under severe difficulty, especially during the last year of employment.

In January 1960 he was extremely ill, fighting for his breath and I am informed by the physician to whom he was referred at that time (Doctor Gerald Crenshaw) that he was

Occupational and Clinical History CONTINUED:

suffering from congestive heart failure of pulmonary origin at that time. Treatment required oxygen in the usual measures for treatment of congestive heart failure, I am informed by Doctor Crenshaw. Finally on February 13, 1960 an operation was performed at Alta Bates Hospital by Doctor Crenshaw which consisted of opening the left chest, removing a portion of lung including some large emphysematous blebs. Doctor Crenshaw informs me that the pathologist at Alta Bates Hospital (Doctor David Singman) made a diagnosis of asbestosis on the basis of this material removed. Doctor Crenshaw further tells me that the lung was found to be quite severely scarred and difficult to expand.

Following the operation the patient developed a gastric ulcer while still in the hospital and this ulcer apparently ruptured and required emergency abdominal surgery which was carried out on or about March 20, 1960 by Doctor McChesney. The patient had a difficult postoperative course but eventually regained his general sense of well being and believes that he is somewhat improved generally.

Present Symptoms:

General Complaints - He states that at present he feels comfortable so long as he does not exert himself, that he has no fever, that his weight is approximately normal and no other sort of distress.

Cardio-respiratory Symptoms - His principal complaint is that of shortness of breath and and he says that he would not be able to climb more than one flight of stairs or walk more than one-half to one block without becoming severely distressed from shortness of breath so that he would have to stop and breathe before continuing. He complains of a soreness in his chest, principally on the side where the operation had been performed (the left side). He says that he has little or no cough at present but did have a severe cough before he quit smoking about one and one-half years ago. (He did cough very severely in January 1960). He has no current symptoms of congestive heart failure such as ankle swelling, anginal pain, etc.

Gastro-intestinal Symptoms - He has no ulcer symptoms at present such as abdominal pain, indigestion, etc. He also has no difficulty with his bowels.

Genito-urinary Symptoms - No difficulty passing his urine, no frequency, no pain, etc.

Head, Eyes, Ears, Nose, Throat - No unusual complaints. He rarely has respiratory infections.

Skeletal System, Muscular System, Central Nervous System, Peripheral Nervous System - No complaints.

Personal Habits:

He does not smoke. He never uses alcohol to excess. He leads a very quiet life. He say that he has not been employed since January 1960. He gets treatments twice weekly at Doctor Crenshaw's office utilizing the Bird Positive Pressure Breathing Device.

Past Medical History:

He has never had rheumatic fever, diabetes, typhoid fever, malaria, syphilis, hypertension, asthma, hay fever, arthritis, pneumonia, tuberculosis or any other serious disease. He had never had any operations prior to the operations mentioned above.

Family History:

Family disease tendencies - none known. His mother died of heart trouble at the age of about 55 years. His father died as a result of an accident in a logging camp when a young man. He has three brothers and three sisters who are living and well.

THE PRECEDING PORTION OF THIS REPORT WAS DICTATED IN THE PRESENCE OF THE PATIENT AND HIS WIFE ON DECEMBER 22, 1960.

Physical Examination:

His general appearance is that of a person in excellent general health.
Height - 6 ft.
Weight - 181 pounds. (usual weight 176 pounds).
Blood Pressure - Normal, 140/70.
Pulse - Normal, 68.
Temperature - Normal, 98°.
Eyes - Pupils are round, regular and equal, reflexes to light and accommodation normal, external ocular movements normal.
Oral Cavity - No significant changes seen.
Lymph Nodes - None are enlarged or diseased.
Thyroid - Normal.
Breasts - Normal.
Skin - Normal, no cyanosis observed.
Chest Wall - Shape within normal limits. Scar of left thoracotomy is well healed. Respiratory excursion considerably limited. Slight tenderness in the region of the scar. Percussion note considerable dullness over the lower half of the left chest laterally and posteriorly. Breath sounds are coarse at the left base, absent at the left apex and distant throughout the right lung.
Heart - Size indeterminate, rhythm regular, no murmurs or other abnormal sounds detected. Neck veins are not distended in the erect posture.
Abdomen - No enlargement of liver, spleen or kidneys. No unusual tenderness, no abnormal masses detected.
Extremities - Slight deformity of the fingers suggestive of early clubbing, but classical signs are not seen. No edema of lower extremities. No other significant findings.

X-ray Examination of the Chest:

Stereoscopic and left lateral projections on December 22, 1960 revealed the following: Both hemidiaphragms are flattened and irregular but this was more pronounced on the left side than the right. The heart is difficult to outline because of pleural changes on

X-ray Examination of the Chest CONTINUED:

the left but is probably within approximately normal limits as to size and shape although its position is distorted by contracture of the left chest. The patient is also slightly rotated. Both lung fields are grossly abnormal. On the right side there is moderate emphysematous changes at the right base and in the right apex with a considerable amount of both nodular and linear fibrosis prominently demonstrated throughout the mid lung field area and some pleural changes laterally and medially. On the left side there is little or no normal lung structure appearing but there is a very large anterior cystic appearing area, probably postoperative free pleural space due to inability of the lung to expand. There are also evidences of cystic changes at the left base. The vascular shadows are partially obscured on both sides but almost totally obscured on the left.

CONCLUSIONS: The findings are unusual and much of what is seen on the left side may be due to postoperative change and failure of the lung to expand. On the right side there is evidence of rather marked fibrosis and emphysematous change which would be compatible with any one of numerous conditions. There seems to be adequate distortion and scarring of lung to explain the man's symptoms.

Fluoroscopic Examination of the Chest:

On fluoroscopy both hemidiaphragms are very limited in their mobility. The left side being nearly or entirely fixed in a depressed position while the right hemidiaphragm moves less than one inch. The large left upper anterior air space is well seen.

Tests of Pulmonary Function:

Body surface area 2.06 square meters.

Maximal Breathing Capacity - 65 liters per minute (normal 116 liters per minute plus or minus 20%).

One second vital capacity 1.5 liters, two seconds 2.0 liters, three seconds 2.2 liters, total 2.6 liters.

Maximal Expiratory Flow Rate - measured on the spirogram approximately 80 liters per minute.

INTERPRETATION: The findings are those of both obstructive and restrictive ventilatory deficiency. There is rather marked obstruction to air flow in each of the four sets of tests performed. The patient seemed to be reasonably cooperative. The findings are compatible with the man's symptoms.

Electrocardiogram:

Auricular Rate 65, Ventricular Rate 65, Rhythm Sinus, T Waves Normal, P-R Interval 0.16, Q-R-S Interval 0.07, S-T Segment Isoelectric, Electrical Position Vertical, Electrical Axis Normal.

REMARKS: Normal record.

Summary and Conclusions:

This patient has described working conditions which might well involve the inhalation of significant amounts of pathogenic asbestos fibers. He has symptoms and objective findings of diminished breathing capacity. He has x-ray findings which would be

Summary and Conclusions CONTINUED:

compatible with a diagnosis of pulmonary fibrosis, including asbestosis. However, the findings are not diagnostic of this condition. The patient has been subjected to lung biopsy and it has been reported to me by telephone from Doctor Crenshaw that the operation revealed asbestosis.

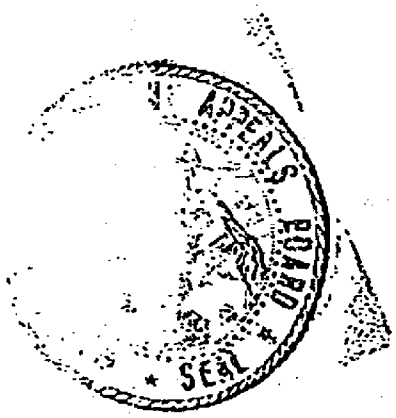
It is my recommendation that the tissue removed and slides previously prepared be obtained for review by additional pathologists and that the preoperative chest films be obtained to determine better the condition of the left lung.

It would also be helpful to review the hospital record, to inquire as deeply as possible into the causative factors concerned with this man's congestive heart failure of one year ago.

Very truly yours,

H. Corwin Hinshaw, M.D.

HCH:DF



WARREN L. HANNA
DONALD R. BROPHY
WALTER JARDSEN
IVAN A. SCHWAB
ROBERT M. MAC LEAN
JOHN A. MAC DONALD
EDWARD P. MC ALEER
HERBERT C. JENSEN
EDWARD W. KOPAS
THOMAS B. RICHARDSON
DONALD V. MITCHELL

GRIGGS M. ENLMAN
HENRY F. SAUNDERS
HOGEN J. KALLENBYN

LAW OFFICES OF
HANNA & BROPHY
1540 SAN PABLO AVENUE
OAKLAND 12 CALIFORNIA
TEMPLEBAR 2-5565

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
936 N STREET
FRESNO 21, CALIFORNIA

SACRAMENTO OFFICE
926 J STREET
SACRAMENTO 14, CALIF.

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

S.F. 3-20-61
GWL

RECEIVED
APR 11 1961
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

April 10, 1961

Industrial Accident Commission
455 Golden Gate Avenue
San Francisco, California

Re: Roscomb E. Bordon vs.
Western Asbestos Co., et al
I.A.C. No. S.F. 193-770

Gentlemen:

We attach the reports of Dr. George A. Watson, dated March 15, 1961, and Dr. H. Corwin Hinshaw, dated March 17, 1961, to be filed on behalf of our clients, copies being this day mailed as shown below:

Very truly yours,

Ivan A Schwab

IAS:BR
Enc.
c.c. Donahue, Richards & Gallagher, Attorneys at Law
Central Bldg., Oakland 12
c.c. State Fund, S.F.
c.c. Union Mut. Life Ins. Co.
114 Sansome St., S.F. 4
Att: L. W. Likens

EXHIBIT
KN-7

GEORGE A. WATSON, M.D.
PATHOLOGIST
1490 California Street
San Francisco 11, California
SKyline 1-0550

Name Borden, Jr. Roscomb Patient No. H-61-422

Ward Date 3-16-61

Clinical Diagnosis

Source of Material Four slides marked S-60-716

Attending Physician Dr. H. Corwin Hinshaw Address

Abstract of History and Report:

GROSS EXAMINATION: Four microscopic slides from Alta Bates Community Hospital, Berkeley, California. These each bear the label S-60-716 and one of them, a lymph node is also titled Roscomb Borden. The remaining three slides include portions of lung parenchyma and dense hyalin membrane apparently pleura.

MICROSCOPIC EXAMINATION: The pleural slides exhibit dense, relatively acellular, collagenous, hyalinized membrane with a perioheral layer of mature fat. In the latter there are patchy areas of lymphocytic infiltration and on the opposite visceral border there are some masses of fibrin undergoing organization. The lymph node is reniform in shape and measures 1.9 x 1 cm. Scattered throughout are many small follicles with germinal centers. The sinusoidal spaces are greatly distended and occupied by sheets of mononuclear elements. These have abundant cytoplasm and all of them are dusted by fine to coarse, anthracotic pigment. There are also some clusters of very coarse, granules but with smooth peripheries resembling hemosiderin. Under the polarizing microscope numerous tiny anistronic crystals are identified consistent with silica.

The section including lung parenchyma is quite dissociated consisting of several more or less discrete fragments. The branches of the bronchial tree show a mild degree of lymphocytic infiltration. Part of the section is occupied by coarse, collagen and large vessels but it is not completely certain whether this represents a subpleural area or a parenchymal zone of replacement fibrosis. The small amount of alveolar tissue amounts to not over twelve or fifteen square millimeters. The alveolar walls are approximated and the lumina contain mononuclear cells. The septa are coarse and fibrotic with intervening areas of total replacement by cicatricial collagen. Masses of hemosiderin and carbon are scattered throughout with anisotronic crystals intermingled similar to those seen in the lymph nodes. Of particular interest is the presence of many rod shaped bodies often with one bulbous extremity and a smooth shaft. These have a color indistinguishable from hemosiderin.

DIAGNOSIS:
1) ASBESTOSIS
2) PULMONARY FIBROSIS, MARKED
3) PLEURAL FIBROSIS, MARKED
4) PLEURITIS, FIBRINOUS, ORGANIZING
5) ANTHRACOSIS, LYMPH NODE

COMMENT: In this limited pulmonary biopsy, amounting to only about twelve to fifteen square millimeters of potential air-containing parenchyma there are relatively numerous characteristic asbestosis bodies with associated fibrosis. Silica crystals and carbon are also present in amounts commonly seen in lungs without fibrosis.

H. CORWIN HINSHAW, M.D.
HORTON C. HINSHAW, Jr., M.D.
450 SUTTER STREET
SAN FRANCISCO 8, CALIFORNIA

TELEPHONE
YUKON 2-7166

March 17, 1961

FROM H. Corwin Hinshaw, M.D.

TO Industrial Indemnity Company
350 Sansome Street
San Francisco, California

SUBJECT Mr. Rescomb Borden
IAC No. 60 SF 193-770
REPORT OF FURTHER STUDIES

Since the submission of my previous report which bears the date of December 29, 1960, I have had the opportunity of reviewing further records on this case and have studied and discussed it with Doctor George A. Watson, Pathologist, namely, the findings on microscopic examination of lung tissue removed at the time of Mr. Borden's lung surgery. I have also reviewed a report of chemical examinations of the tissue carried out by the State of California Department of Public Health.

The information supplied from Alta Bates Community Hospital is probably not the complete hospital record but it seems to be adequate for the present purposes and it concerns Mr. Borden's hospitalization there in February and March, 1960 including a detailed report of the operation performed by Doctor Gerald Crenshaw on February 25, 1960. The records confirm the history as recited in my previous report and the numerous x-ray reports confirm the fact that this man had very extensive pulmonary injury with extensive cystic changes for which the operation of February 25, was performed. At the time of operation Doctor Crenshaw observed the extensive disease which x-rays have demonstrated. He carried out segmental resection of a portion of the left upper lobe and removed a portion of the parietal pleura.

The findings on microscopic examination of the removed lung tissue have been reviewed and the material has been submitted also to Doctor George A. Watson, pathologist at the Kaiser Hospital. Both pathologists agree that asbestosis is present with marked pulmonary fibrosis and inflammatory changes consistent with a diagnosis of asbestosis. Asbestos fibers were numerous in some of the sections observed and seemed to establish quite adequately

March 17, 1961
From H. Corwin Hinshaw, M.D.
To Industrial Indemnity Company
Subject Mr. Rescomb Borden
Report of Further Studies (continued)

that this disease is of industrial origin and of severe degree.

It is my opinion that the diagnosis of asbestosis is secure, that the patient is disabled for all activity other than sedentary work and that his life expectancy may be significantly shortened as a result of this industrial injury.

Very truly yours,

H. Corwin Hinshaw, M.D.

HCH:mjh
Enclosures

WILLIAM H. DONAHUE
1889-1960
FRANK V. RICHARDS
JAMES E. GALLAGHER
GEORGE E. THOMAS
JOSEPH A. SILVEIRA JR.
JOSEPH T. RICHARDS
THOMAS SCHNEIDER
ROBERT C. LAMBORN
JAMES H. HOGAN

LAW OFFICES OF
DONAHUE, RICHARDS & GALLAGHER
CENTRAL BUILDING
OAKLAND 12, CALIFORNIA
TELEPHONE GLENCOURT 1-0844

May 5, 1961

Department of Industrial Relations
Industrial Accident Commission
455 Golden Gate Avenue
San Francisco, California

FILE TO OAK 5.8.61

Attention: Mr. George W. Lane, Referee

Re: Rescomo E. Borden v. Western Asbestos Co
Claim No. SF 193-770

Dear Mr. Lane:

I now enclose original medical report from Gerald L. Crenshaw, M.D. which I received on May 4, 1961. Thermofax copies of this report have been forwarded by copy of this letter to the various parties.

Very truly yours,

DONAHUE, RICHARDS & GALLAGHER

By: Robert J. Lamborn

RCL/ro'd

cc: State Compensation Insurance Fund
525 Golden Gate Avenue
San Francisco, California

Hanna & Brophy
100 Bush Street
San Francisco 4, California

L. W. Likens, Esq.
114 Sansome Street
San Francisco 4, California

Sedgwick, Detert, Moran & Arnold
100 Bush Street
San Francisco, California

GERALD L. CRENSHAW, M.D.
447 TWENTY-NINTH STREET
OAKLAND 9, CALIFORNIA
TELEPHONE OLEANDER 1-2048

May 3, 1961

Mr. Robert C. Lamborn
Attorney at Law
Central Building
Oakland 12, California

Re: Rescomb E. Borden

Dear Mr. Lamborn:

This is a resume on Mr. Borden as you requested.

Mr. Borden came to me having been cared previously by Dr. Howard Huenergardt because of progressive dyspnea. He was seen in this office from January 23, 1960 complaining of chest pains, cough with sputum and dyspnea. He said that he had this trouble for many years and had been told to see a specialist by Dr. Huenergardt. He didn't improve so was referred to us. He gave a history of having worked in the asbestos industry for a period of twenty eight years. He had been referred to the Kaiser Hospital by the Insulators and Asbestos Industry of Northern California, Local Union 16, Health and Welfare Plan at 200 Guerrero Street, San Francisco, California on March 5, 1955 for pulmonary function studies and Xrays of the chest.

The pulmonary function studies done in 1958 showed that he had a lung capacity of 4.1 liters and in 1959 it was 3.9 liters. Timed capacity was 3.1 liters in 1958 and 2.9 liters in 1959. Their percent was 76 to 95 which indicates a moderate lung impairment; 75 and below indicates severe lung impairment. At that time, he had severe lung impairment. His Xray was read by Dr. Richard Holmes as showing marked generalized emphysema and there appeared to be slightly more fibrotic changes in the lower lung fields than on previous examinations of October 2, 1957. The impression was marked generalized emphysema with probably slow progressive fibrosis.

The patient was hospitalized by me at Alta Bates Hospital on preparation for further examination because, at that time, he presented with large bullous atrophy of both apices and marked pulmonary fibrosis in both lower lobes and cardiac failure. There was definite ankle swelling and edema, also, definite evidence of cor pulmonale and congestive failure. He was placed on intermittent positive pressure therapy until his cardiac condition became improved. Surgery was performed in order to obtain a piece of lung because the Xrays, at that time, were characteristic of asbestosis. As it is well known, the etiological features of far advanced asbestosis show a bullous cyst formation at times and a mottling in the lower lung fields, irregularity to mediastinum described as a shaggy border to the heart and in many cases, as in this man's

Mr. Robert [illegible]born
Re: Rescomb E. Borden

case, there is evidence of pleural thickening. Pulmonary function studies show the characteristic findings again of pneumoconiosis and asbestosis which shows that the patient cannot really take a deep breath and there is an extraordinary diminution of inspiratory capacity compared with the normal person. There is often a normal maximum breathing capacity but a marked diminution in inspiratory capacity and usually no respiratory flow resistance and characteristically a normal or relative good maximum breathing capacity is present as was in his case. He showed hyperventilation on excursion.

The patient was admitted under degenerative lung disease until a more accurate diagnosis could be made. His electrocardiograms at that time showed a slight shift to the right, probably due to position. The depression of the S-T segments in the right leads in both electrocardiograms were due to right heart strain or cor pulmonale. They were read by Dr. K.W. Benson of Alta Bates Hospital.

He was taken to surgery on February 25, 1960, at which time, a large bullous atrophy of the upper lobe was determined and resected in the classical manner. The lower portions of the lung were found to be markedly fibrotic, gritty and grossly involved with some irritating chemical. Based upon the patient's history, it was assumed that this was asbestos. Lung biopsies were taken and sent to the State Laboratories which confirmed that this man had extensive pulmonary fibrosis associated with a large number of asbestos particles.

The patient's post operative course was extremely stormy. Even at this time, the remaining portion of the lung had not filled the left chest cavity because of marked constriction due to the fibrosis in his lung. He developed an electrolyte imbalance necessitating consultation. He also had a rupture of the cardia of his stomach which again necessitated consultation and surgery from a general surgeon. This rupture failed to show on regular G.I. series and caused a great deal of controversy in the hospital until the actual exploration when a rupture of a small area was found to be present below the diaphragm in the cardia of his stomach. This was repaired and the patient made an uneventful recovery.

He has been under care in my office for extreme pulmonary crippling due to inhalation of asbestos particles. He has gained weight, looks well but on the least exertion, he becomes markedly dyspneic and his activity is markedly impaired. It is my considered medical opinion that he never will be able to return to any gainful occupation. The ultimate prognosis is poor in his case because of the extreme crippling as the result of his extensive fibrosis.

Conclusion: This is a case of industrial origin due solely to the inhalation of irritating asbestos particles over many years associated with his work. This has resulted in atrophy which occurs in asbestosis and in pulmonary fibrosis. He also has pleural thickening which occurs with asbestosis and will continue to make it impossible for this man to return to gainful occupation for the remainder of his life. The ultimate prognosis in this case is grave.

Hoping that this is the information that you desire, I remain,

Respectfully yours,

Gerald L. Crenshaw, M.D.

GLC:[illegible]

LAW OFFICES OF
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1340 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-0369

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ROBERT N. MAC LEAN
JOHN A. MAC DONALD
EDWARD F. MC ALEER
HERBERT C. JENSEN
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824 J STREET
SACRAMENTO 14, CALIF.

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2000 HEDDING STREET
SAN JOSE 28, CALIF.

RECEIVED
MAY 15 1961
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

May 12, 1961

Industrial Accident Commission
RECEIVED
MAY 1 8 1961
Oakland Office

Industrial Accident Commission
455 Golden Gate Avenue
San Francisco, California

Attention: Referee George W. Lane

Re: Rescomb E. Borien vs.
Western Asbestos Co., et al
I.A.C. Claim No. S.F. 193-770

Gentlemen:

Enclosed please find the report of Dr. [illegible] dated April 17, 1961, which the defendant Industrial Indemnity Company asks be filed in evidence. A copy of the report is being served upon the parties listed below.

In view of the report submitted by Dr. [illegible], Industrial Indemnity Company hereby withdraws the issues of injury arising out of and occurring in the course of employment, and nature and extent of disability, which were raised in its answer, and [illegible] this letter stipulates that the applicant sustained an injury arising out of and during the course of his employment, consisting of asbestosis, [illegible] the extent disability as alleged in the application, from [illegible] 19[illegible], to date.

Our principal concern is, of course, a desire to avoid any [illegible] [illegible] [illegible] [illegible]. [illegible] this matter was set for [illegible] [illegible], 1961, [illegible] advised that he intended to call several doctors [illegible] further hearing to be set [illegible] will [illegible] necessary in view of [illegible] that [illegible] [illegible] Company.

Very truly yours,

[signature]

[illegible]
[illegible]
[illegible]
[illegible]
c.c. [illegible] Life Ins. Co.
114 S[illegible]
Att: Mr. L. W. Libens

WORKMEN'S COMPENSATION APPEALS BOARD

EXHIBIT
KN-7

H. CORWIN HINSHAW, M.D.
HORTON C. HINSHAW, Jr., M.D.
450 SUTTER STREET
SAN FRANCISCO 8, CALIFORNIA

TELEPHONE
YUkon 2-2166

April 17, 1961

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

Dear Mr. Schwab:

RE: Rescomb E. Borden vs.
Western Asbestos Co., et al
I.A.C. Claim No. SF 193-770

Thank you for writing me again about this case and for sending me your copies of the reports of Doctor Cabot Brown and Doctor Sidney Shipman which concern the case of Mr. Robert F. Cuthbertson. It was gratifying to note that these physicians and the Industrial Accident Commission agreed with my interpretation of the Cuthbertson case.

The medical literature on asbestosis is rather confusing and complicated. There is general agreement; however, that the mere presence of asbestos fibers does not justify a diagnosis of asbestosis any more than the presence of silica justifies the diagnosis of silicosis. In the Cuthbertson case there was no objective finding to indicate asbestosis other than the finding of a very few fibers in the biopsied lung. Likewise the man's symptoms were not those which would be anticipated from pulmonary fibrosis. My only comment about the Cuthbertson case is that it seems remarkable to me that the Commission seemed to be so difficult to be persuaded in the presence of such obvious and clear-cut medical evidence. There would seem to be no medical justification for all of the extensive and expensive litigation involved in that case. However, it probably was worthwhile because it does help to establish a precedent for similar cases which are likely to arise in the future both with respect to asbestosis and other forms of pneumoconiosis.

In the case of Mr. Borden the situation is quite different, in my opinion. Mr. Borden has symptoms and findings such as one might anticipate from asbestosis. Furthermore he has very extensive x-ray changes in the lung which are compatible with this diagnosis. His pulmonary function tests are abnormal, although not as markedly abnormal as one might anticipate from the x-ray findings. Nevertheless the pulmonary function findings so far as they go are indicative of extensive pulmonary disease. The lung biopsy specimen shows not a few but a great many asbestos fibers and, unlike the Cuthbertson case, there is extensive pulmonary and pleural fibrosis reported. In addition there is inflammatory reaction such as one might anticipate and similar to that reported in other cases of asbestosis.

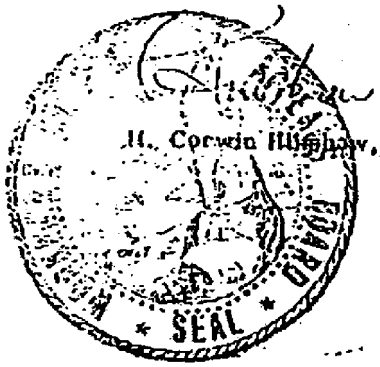
Some insulation workers are exposed to diatomaceous earth dust as well as to asbestos fibers. I do not believe that this is generally recognized but I have examined the powder which these men use in the preparation of some cementing materials and have observed

appearances of diatomaceous earth in this material. You will note that Doctor Watson reports silica in this man's lung and I wonder if this silica may have come from diatomaceous earth. This probably does not affect the legal aspect of his problem but it is a considerable medical interest.

My only suggestions would be : (1) You might wish to have a radiologist, such as Doctor L. H. Garland, review the x-ray films which I have in my files here and possibly ask him to compare these with those of Mr. Cuthbertson. (2) More extensive pulmonary function tests and evaluation of his cardiac status might be desirable. As you know, the Cardio-vascular Research Institute at the University of California has excellent facilities for such examinations. It is my opinion that patients claiming respiratory disability should be frequently subjected to analysis of their breathing capacity because these tests often tell us much more than x-rays and some of the tests, not all of them, are objective and capable of detecting malingering. (3) The material examined by Doctor Watson, pathologist, certainly shows severe changes which would indicate serious disease. It must be recalled; however, that the material he examined represents but a very tiny bit of lung tissue and this may or may not be representative of the lungs in general and may or may not be representative of the material which Doctor Crenshaw removed. The latter can be determined better by the procurement of the entire tissue specimen removed and the preparation of multiple specimens for pathologic study. This does not seem necessary to me because of the extensive x-ray changes which we are presuming to be due to the same pathologic changes which Doctor Watson describes. However, if this case is to be analyzed to the ultimate degree it would be good to have inspected microscopically more than this one tiny fragment of lung.

Incidentally, while speaking of asbestosis in general I should mention that medical literature is recording many opinions and rather substantial evidence that asbestosis may predispose to lung cancer. This is a risk, or a probable risk, which has not received much legal attention, so far as I know. If this be a fact it may substantially increase the liability of employers in this industry and make more urgent the protection of workers from inhalation of asbestos fibers.

Very truly yours,



H. Corwin Hinshaw, M.D.

HCH:DF