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February 27, 1979

Dennis H. Markusson, Esq.
Legal Department
Johns-Manville
Ken-Caryl Ranch
Denver, Co. 80217

~~CONFIDENTIAL~~
~~SECRET~~

Dear Denny:

As you know, I was subpoenaed by plaintiff in Jackson vs J-M for a deposition last November. I have now had a phone call from Ivan Rubin, formerly a mineralogist with Selikoff's group. Mr. Rubin said that he is now an attorney with Krendler & Krendler in New York, that they represent a plaintiff in the "Groton - General Dynamics cases" and intend to subpoena me for a deposition to explore events at New York University in the 1950s.

In both instances, interest seems to attach to testimony I gave to a congressional committee in 1957 expressing my view that Dr. A. J. Lanza had obstructed research on occupational factors in cancer by myself, Dr. Vorwald and Dr. Hueper.

Details in that matter were presented in a 1955 letter in which I requested a hearing at NYU. That hearing was not granted on grounds that I had not attained tenure. Subsequently in 1955, copies of that letter were among material given by me and others to officers of several companies and labor unions to seek support for continuation of work initiated by a committee to study environmental factors in cancer (Cancer Prevention Committee). Since the cited 1955 letter was familiar to a number of people, it may come up in the present. Mr. Gross has a copy.

Since replies to a scatter of questions at a deposition may be confused and confusing, I have tried to summarize the above matters as I saw them in my enclosed letter of the 23rd to Mr. Gross. Let me invite attention to its last page. Also to its page 2, which quotes from an authoritative 1956 book in which evidence for a causal role of asbestos in lung cancer was found insufficient at that time.

Sincerely,

W. E. Smith

cc. Mr. D.R. Gross

William E. Smith, M.D.
Director
Health Research Institute

PLAINTIFF'S
EXHIBIT
JM-1933

Rosham-madison • mifflintown/wayne • teaneck-hackensack, new jersey

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Florham - Madison Campus

February 23, 1979

David R. Gross, Esq.
Ludd. Lerner, Kent, Gross, Picilli, Rosenbaum
33 Washington Street
Newark, NJ 07102

Dear Mr. Gross:

At a deposition on 28th of last November in your office, Mr. Thomas Henderson asked me questions about the state of knowledge of health effects of asbestos in the 1950s. I have not received a transcript of that deposition, but I write now to clarify and to offer additional material that I believe is pertinent to it.

Following this deposition, Mr. Henderson requested material that I supplied with my enclosed letter of January 18 to him. That letter describes tests that I carried out in 1950-51 for carcinogenicity of three preparations of asbestos in mice. The negative results of those tests and of animal tests by others did not suggest a high priority for further experimental work on carcinogenicity of asbestos at that time.

At or about that time, as you know, there were reports of cases of co-existing asbestosis and cancer of the lungs. This subject was discussed in my report to Cancer Prevention Committee (A Survey of Some Current British and European Studies of Occupational Tumor Problems, A.M.A. Arch. Industrial Hygiene and Occupational Medicine 5:242-263, 1952). Subsequent to that report, Dr. John Knox, then medical officer for a manufacturer of asbestos products in England, advised me of additional such cases by letter in 1954, which were subsequently published (Doll, R., British Journ. Industrial Medicine 12:81-86, 1955).

I discussed my 1952 report, Dr. Knox's 1954 letter and Dr. Doll's 1955 report with the then chairman of Cancer Prevention Committee, Dr. E. Cuyler Hammond, who was then as now in charge of statistical studies for American Cancer Society. Dr. Hammond's conclusions from these and other data were stated as follows in a chapter titled "Environmental and Occupational Factors in the Development of Lung Cancer" that he and Dr. Willard Machle contributed to a book titled PULMONARY CARCINOMA published by New York University Press in 1956.

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CP - 100

Quote from Hammond and Machle (1956): "There is very good evidence that uranium and its products, chromates, nickel, and certain hydrocarbons are responsible for the production of lung cancer in a few limited instances involving those engaged in specific industrial operations. A number of other substances have been suspected as causing lung cancer in industrial workers (e.g. arsenic, asbestos, beryllium, and other agents capable of producing pneumoconiosis), but in opinion the evidence for their causal role is insufficient."

The full title of the cited 1956 book was PULMONARY CARCINOMA PATHOGENESIS, DIAGNOSIS AND TREATMENT. It was edited by Edgar Mayer and Herbert C. Maier and contained contributions by 18 individuals. I contributed a chapter titled "The Biology of Cancer with Special Reference to Cancer of the Lung. Experimental Studies." The only reference that that book contained to the question of carcinogenicity of asbestos was in the above-cited chapter by Hammond and Machle, who concluded that evidence for a causal role of asbestos in lung cancer was insufficient.

Accordingly, although various other individuals, including myself, had by that time been impressed by findings of lung cancer in asbestos workers, the evidence was not regarded as conclusive in the cited authoritative book published in 1956. Let it be remembered that, at that time, data had developed to show that cigarette smoking was a cause of lung cancer, hence might have caused the cancers reported in asbestos workers.

At last November's deposition in your office, I was asked questions about my association with Dr. Anthony J. Lanza, who was Director, Institute of Industrial Medicine, New York University, when I was on the full-time staff of that Institute as Assistant Professor, later Associate Professor of Industrial Medicine in 1949-1955.

It was at Dr. Lanza's suggestion that, in 1950, I visited doctors in England to learn what information they had on cases of co-existing asbestosis and lung cancer. I presented information from those visits at an October 1950 meeting of Cancer Prevention Committee attended by Dr. Lanza who contributed comment in the discussion published with it in 1952 where cited above.

Up to the time of the October 1950 meeting of the Committee, I had been in charge of experimental studies of potential occupational carcinogens at his Institute. After that meeting, he allowed me to continue testing of carcinogens on the skins of animals, but he excluded me from inhalation studies of lung cancer for which I had prepared a review of the literature.

That review was presented at a meeting of Cancer Prevention Committee in November 1949, and was subsequently published (Lung Cancer with Special Reference to Experimental Aspects, A.M.A. Arch. Indust. Hygiene & Occupational Medicine 5:209-217, 1952). In the matter of asbestos, it questioned (page 212) the only experiment reported up to that time as experimental evidence for induction of lung cancer by asbestos.

On receiving the above-cited letter from Dr. Knox in 1954 advising of additional cases of lung cancer in asbestos workers, I handed it on to Dr. Lanza. He responded with a vehement statement that researchers interested in occupational factors in cancer were trouble makers who wanted to pin cancer on industries. Shortly thereafter (June 1954), Dr. Lanza advised me that my appointment would not be renewed after the following year. It was not.

In this matter, Dr. Lanza made plain that he regarded me as a trouble maker for organizing the Cancer Prevention Committee and planning most of its meetings. Ten of its 16 published meetings were concerned with occupational factors in cancer (Proceedings of the Cancer Prevention Committee, A.M.A. Arch. Indust. Hyg. & Occupational Medicine 5:185-289, 1952). The reprint of those Proceedings, introduced at my deposition, has these pages numbered as 1-105. As outlined on pages 3 to 5 of the reprint (pages 187-189 in the journal), purpose of the Cancer Prevention Committee was to study environmental factors in cancer by bringing together academic, management, labor and public health personnel.

Two other situations in which Dr. Lanza obstructed studies of potential occupational factors in cancer involved research by Dr. Arthur Vorwald and by Dr. W.C. Hueper.

In 1952, Dr. Vorwald observed lung cancer in animals exposed to a dust containing beryllium compound. At that time, he was director of Saranac Laboratory, where he planned to develop further experiments on lung cancer. Dr. Vorwald resigned in 1953. At that time, Dr. Lanza stated to me that Vorwald was a trouble maker who wanted to pin cancer on industry, and that he (Dr. Lanza) had used his position on the board of that laboratory to bring about Dr. Vorwald's resignation.

In 1951, Dr. Lanza stated to me that Dr. Hueper at National Cancer Institute was causing trouble through studies of lung cancer in chromate workers, and that he (Dr. Lanza) had called on the then Surgeon General and obtained assurance that all field studies by Dr. Hueper on cancer in relation to occupation would be discontinued. They were. This matter and Dr. Lanza's role in it was confirmed by a letter from Dr. Hueper entered in testimony in 1957 before a congressional committee cited at my deposition.

Before coming to New York University, Dr. Lanza had been employed in the insurance industry for many years. In those years and in his years at New York University, he was concerned with questions involving claims for compensation for diseases of occupational origin.

In my view, the "trouble" that Dr. Lanza sought to allay through his actions in regard to Dr. Hueper, Dr. Vorwald and the Cancer Prevention Committee was the possibility that unjustified compensation claims would arise from speculative implications or inadequate or misinterpreted data on potential carcinogens. I can appreciate this concern.

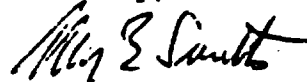
In a Symposium on Cancer Prevention that I chaired for International Union Against Cancer, I presented a paper on "Environmental Factors in Cancer" (Acta Union Internationale contre le Cancer XIII (1) 77-85, 1957). As brought out toward the end of that paper, I recognize that protection against unjustified claims is a proper function for physicians engaged in compensation problems, but actions should not be undertaken to obstruct research for identification of preventable hazards.

I detail the above events today because I believe they support a view that identification of hazards, notably those with long latent periods associated with carcinogens, can progress more rapidly if compensation and liability matters are arranged in some way that will benefit injured persons without generating lawsuits that could destroy industries and lead to unemployment of large numbers of workers.

In the matter of asbestos, in my years at New York University and subsequently, I have had numerous contacts with officers and employees of Johns-Manville in studies on health effects of asbestos. Throughout, I have found them interested and cooperative in seeking facts in the matter. They have as individuals and as a company expedited and assisted my work on this subject.

I have prepared this letter on my own initiative without suggestion from or discussion with anyone. I trust it can be made part of my deposition.

Sincerely,



William E. Smith, M.D.
Director
Health Research Institute

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