

BWC

BUREAU OF
WORKERS' COMPENSATION

Division of Safety & Hygiene, 30 West Spring Street, Columbus, Ohio 43215

PLAINTIFF'S EXHIBIT

MAR-40

August 26, 1994

Lou Ann
Claims
Lima Service Center
BWC
Lima, OH

OD232070 - McDonald Construction, Inc.
OD232071 - Grizzly Brake Div., Mafemont Corp.

Attention: Lou Ann

You recently referred the above named asbestos-related claims to the Division of Safety and Hygiene for investigation. [REDACTED] died on 11/17/93 at age 59. His widow filed two claims alleging her husband's death from lung cancer was the result of an occupational disease. Per Dr. Metry, the final diagnosis was respiratory failure, malignant pleural effusion, sepsis and probable lung cancer.

[REDACTED] was seriously injured during an industrial accident which occurred in 1971 when he was working for McDonald Construction. He suffered a broken neck and fractured spinal column. He had been quadriplegic ever since the accident and had been declared totally and permanently disabled.

Medical Records

The files provided contained many records related to [REDACTED] treatment following his injury. He was treated for urinary tract infections on several occasions. He was also diabetic and had a biopsy of skin from the left shoulder which showed basal cell carcinoma. He was treated for bed sores and he had pneumonia twice in 1993. He was admitted to Van Wert County Hospital on 10/24/93 for pneumonia and died about 3 weeks later. Dr. Lautzenheiser reported [REDACTED] was predisposed to urinary tract infections and his ability to cough had been compromised by his injuries, contributing to his pneumonia. A specimen of pleural fluid collected on 11/12/93 was reported to have been suspicious for malignancy. Dr. Metry reported no biopsy or tissue specimen was done due to [REDACTED] unstable condition. He reported "asbestosis or mesothelioma were never isolated; however, asbestosis was a consideration in the differential diagnosis."

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There were a number of chest x-ray reports in the file. I did not see any specific mention of asbestosis or plaques on any of these reports.

Grizzly - [REDACTED]

The claim application form for Grizzly Manufacturing gave [REDACTED] hire date as 9/20/50. He would have been about 16 years old then. Records concerning the type or length of his employment there were not available. His son's birth certificate (4/26/62) indicated [REDACTED] was a laborer at Grizzly. When he was injured in 1971 he was no longer working for Grizzly. Thus, he could have worked at Grizzly for 12 to 21 years. The claim application stated he worked for 21 years in the occupation that caused his disease. Other than the listing of laborer on his son's birth certificate, there was nothing in the file to indicate what kind of jobs [REDACTED] held at Grizzly Manufacturing.

I called Mrs. [REDACTED] on 8/22/94 to see if she knew what kind of work her husband did at Grizzly. Her son said she was resting so I asked him to see if she remembered any thing specific. I called back later that day and talked to her son. He said his father worked on the line where the brake lining was riveted to the brake shoe. He said they would check with former coworkers for additional information. I told him I would call back in a couple of weeks.

I reviewed the records for Grizzly which were included in the files. This facility was apparently called Grizzly Brake Division, Maremont Corporation. It was later owned by Nuturn Corporation, now known as Ferodo America, Inc. Brake and clutch linings containing asbestos were manufactured at this facility. At least 18 other asbestos related claims were filed in the past by employees at this site. In 1982, Mr. Lou Gergely, who was then Manager of Industrial Hygiene and Engineering for the Division of Safety and Hygiene, referenced an earlier report by Robert Crackel, Industrial Hygienist and documents from the Occupational Safety and Health Administration (OSHA). He concluded, "It would appear that in any case wherein medical evidence established the existence of an asbestos related disease, a cause and effect relationship between the disease and work place exposure at the subject company is a definite possibility."

The potential for asbestos exposure at this facility would depend upon the nature of the job(s) performed. In 1974 excessive asbestos dust levels were reported in the block department where saws were used to cut asbestos board. The OSHA inspector reported this activity generated "large clouds of asbestos in the air." A photo showed an employee in this department shoveling asbestos board shavings. The employee was wearing a respirator, but the material was not wetted. Samples were also collected in the block department to evaluate employee exposures at a pre-form press operation. At this operation, an employee scooped raw asbestos from a bin into a scale and operated a press designed to bind the asbestos material into a board. This employee was wearing a respirator while scooping the asbestos but not while operating the press. In 1979 OSHA citations were issued regarding employee exposures to asbestos while operating edging machinery and grinding equipment in the clutch department. OSHA also issued citations

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for violations of regulations for personal protective equipment, including respiratory protection.

As in the claim investigated by Mr. Crackel, the OSHA inspections were conducted at a time following [REDACTED] employment. It is likely conditions were even worse in the past. The companies attempts at controlling asbestos, however inadequate, were probably completely lacking during [REDACTED] employment period which began in 1950.

The information in the file concerning asbestos exposure at Grizzly relates to employees working in the block department and the clutch department. We do not have information about [REDACTED] employment there except, according to his family, he worked on a line where asbestos brake linings were riveted on the brake shoe. Riveting asbestos board would result in some asbestos exposure, although probably not to the degree reported by OSHA from cutting and grinding activities.

McDonald Construction - [REDACTED]

The Manual Number listed on the claim application form for McDonald Construction, Inc. is assigned to Building Construction or Carpentry. [REDACTED] occupation was listed as brick mason. I talked to Brenda Matthewson, Office Manger for McDonald Construction, on 8/22/94. She said they had gone through all their records and did not have any information on how long [REDACTED] had been employed or where he was assigned to work. She said the owner, Mr. Ray McDonald thought [REDACTED] had worked for them about two years. He remembered [REDACTED] as a heavy smoker. Keith McDonald, Vice-President, rejected the claim stating they did not feel [REDACTED] spinal injury was related to his lung cancer.

At the time of the accident he was working at the Johns Manville Plant #8 in Defiance, Ohio. The copy of the claim for this injury was not very legible. It looked like there was a cave-in in the baler pit and [REDACTED] was struck by some object. I talked to Mr. Craig McKibben, Maintenance Superintendent at this Johns Manville facility on 8/22/94. He said that to his knowledge all asbestos in the facility was in a non-friable form such as transite wall board. He said work in the baler pit would have involved fiberglass. They manufacture fiberglass insulation at this facility and did not manufacture or sell asbestos insulation at this site.

There is not enough information available to indicate [REDACTED] would have had any asbestos exposures while employed by McDonald Construction, Inc.

Comments

Asbestos is known to cause both asbestosis and lung cancer, as well as mesothelioma and other cancers. The latency period between exposure to asbestos and detection of asbestos-related malignancies is generally more than 20 years, but shorter periods have been reported. Pleural calcification is not seen commonly until 20 years after onset of exposure. Symptomatic asbestosis is uncommon before at least 20 - 30 years of exposure.

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Death rates for lung cancer in asbestos workers who smoke are much higher than in non-smoking workers.¹

Summary

The frequency, intensity and duration of the claimant's asbestos exposure are not known. It seems much more likely that [REDACTED] was exposed to asbestos during the many years he worked at Grizzly, which manufactured brake and clutch linings rather than during his short term employment by McDonald Construction, Inc., a construction contractor. However, specific information regarding his job duties at Grizzly is lacking. Additionally, there are some questions about the nature of the disease which led to his death.

Please let me know if you need additional information. I can be reached at (513) 367-1753 or (614) 466-5562. We would appreciate it if you would complete the enclosed questionnaire and return it to Beth Purcell by SSD mail.

Sincerely,

Marilyn Priddy

Marilyn Priddy, CIH, CSP

References

W. Keith C. Morgan and Anthony Seaton, Occupational Lung Diseases, W. B. Saunders Co., Philadelphia, 1984.

Zenz, Carl, Occupational Medicine, Principles and Practical Applications, Second Edition, Year Book Medical Publishers, Chicago, 1988.

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