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13-4253

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January 25, 1980

Re: Cause #79-17924; Steve McHenry, et ux vs. Johns-Manville Sales Corporation; In the District Court of Harris County, Texas, 80th Judicial District

RECEIVED

Mr. James K. Green
Johns-Manville Corporation
Ken-Caryl Ranch
Denver, Colorado 80217

JAN 27 1980

LEGAL DEPARTMENT

Dear Jim:

This is the Quarterly Summary on the Steven McHenry case. I have attached to the Summary the Plaintiff's Eighth Amended Petition which is identical in all respects to the first seven petitions with the exception of additional defendants. At the present time, the defendants are Johns-Manville Sales Corporation, Johns-Manville International Corporation, Southern Johns-Manville Product Corporation, Forty-Eight Insulations, Inc., Mine Safety Appliance Company, Clemtex Limited, Owens Corning Fiberglass Corporation, Eagle Picher Industries, Inc., Garlock Inc., Johns-Manville Product Corporation, Flexitallic Gasket Company, Inc., Nicolet Industries, Inc., Specialty Sand Company, The Celotex Corporation, Phillip-Carey, Inc.

This case is somewhat unusual in that Mr. McHenry is claiming to be suffering from both asbestosis and silicosis.

In answer to interrogatories submitted to the Plaintiff, Mr. McHenry provided us with the following information; he was born on January 1, 1925 and has worked at Crown Central Petroleum from July 5, 1951 until January of 1978. Mr. McHenry worked a 5 day week from 7 a.m. to 3 p.m. at an hourly rate of \$8.55 per hour. Mr. McHenry denies working since leaving Crown Central Petroleum Refinery.

Mr. McHenry served in the United States Navy from 1943 to 1946. After beginning work at Crown Central Petroleum Company as a laborer, he helped insulation workers perform

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their duties, cleaned up old insulation after they had finished working, and helped prepare insulation materials. During this time, he also cleaned steel drums using a hammer to knock out caked coke on the drums and this was quite dusty also. Mr. McHenry worked around insulation products for 17 years until he was promoted to the job of a mechanical helper. After approximately 2 years in this position, his job changed to that of spray paint sandblasting. He continued this job for about 5 years at which time he became a heavy equipment operator, another job which was quite dusty.

Medically, Mr. McHenry has seen Dr. Richard Burman, Dr. Louis Levin, Dr. Daniel Jenkins and Dr. Dan Linkous, all located in Houston, Texas. Mr. McHenry has been in the hospital from January 23, 1978 until January 28, 1978 at Citizens General Hospital in Houston. The admitting physician was Dr. Linkous and Mr. McHenry was admitted because of difficulty in breathing. Both Dr. Linkous and Dr. Jenkins report Mr. McHenry suffering from severe obstructive chronic bronchitis, with evidence of bilateral pleural thickening, consistent with asbestos exposure. There is also evidence of some massive pulmonary fibrosis and conglomerate silicosis evident in the mid-portion of both lung fields. Dr. Jenkins states there is no question but that Mr. McHenry is totally disabled since his functional impairment is quite severe and exercise tolerance is exceedingly limited.

I have enclosed all of the medical records supplied us by Mr. McHenry's attorney.

In answer to our interrogatories, Crown Central Petroleum Company's records reveal Mr. McHenry worked for the company continuously July 5, 1951 until January 20, 1978. Company records indicate the Plaintiff probably did some sandblasting work while employed with Crown Petroleum, but this was not his usual job. No specific records were maintained when sandblasting work is performed, but an estimate was made that the Plaintiff may have been involved in sandblasting operations while assigned to the paint department from June, 1972 until February 20, 1977. Protective devices in the form of hoods are usually provided to employees engaged in sandblasting operations.

The Plaintiff was subjected to a pre-employment physical exam by Dr. W. Carrington in Pasadena, Texas. The Plaintiff passed the physical exam and was deemed fit for strenuous labor. Plaintiff was apparently subjected to no routine subsequent medical examination. He participated in a company-wide study to determine the effects of exposure to benzene on May 26, 1977. The results of that test were normal. Plaintiff also received a chest x-ray on August 3, 1977 when he was hospitalized for an industrial accident. It is possible Plaintiff may have participated in a voluntary chest x-ray program run by the Lung Association during 1971 or 1972. Company medical records reveal that Plaintiff suffered from pneumonia on 2 occasions in the late 1950's and was referred to a physician in 1962 for a severe upper gastric pain. It appears Plaintiff was treated for

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pneumonia at a VA hospital and x-rays may be available from that source.

As to the silicosis portion of his claim, Crown Central's records indicate their sand supplier was Clemtex. Protective devices usually utilized during sandblasting operations were green Clemtex air fed sandblasting materials.

The Plaintiff's earnings have ranged from \$1,431.16 in 1951 to a high of \$20,877.92 in 1977, and are detailed in the attached summary.

On December 20, 1979, the deposition of J. D. Truxal, former purchasing agent for Crown Petroleum Company was taken. Basically, Mr. Truxal's deposition indicated that Crown Central Petroleum Company purchased many items which contained asbestos. Mr. Truxal could recall buying insulation material, gaskets, insulating cement, building siding, as well as tape and wicking, all of which contained asbestos. Mr. Truxal's testimony was that at one time or another, he guessed he had purchased asbestos products from just about everyone who manufactured them. The only names he could recall were those of Johns-Manville, Owens Corning, Phillip Carey, and Weber 241. Mr. Truxal recalled buying most of his products from Johns-Manville, and stated that many times the Johns-Manville product was specifically requested.

In addition to the Plaintiff's Eighth Amended Petition, medical records, and financial information previously mentioned, I have enclosed a detailed summary of the Answers to Interrogatories supplied by the Plaintiff and Crown Central Petroleum Corporation.

Very truly yours,



EAA, Jr./gv
Enclosures

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