

SELF INSURERS SERVICE

A ROLLINS BURDICK HUNTER CORP.

SELF-INSURERS SERVICE, INC. 111 EAST WACKER DRIVE CHICAGO, ILLINOIS 60601 312 • 819 • 5100
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EMPLOYEE BENEFITS

APR 5 1989

W/C INITIAL REPORT

Client: Sherwin-Williams
Address: 101 Prospect Avenue N.W.
Cleveland, OH 44115
Coordinator: Tony Colangelo
Date of Accident: 5/15/81

Date of Report: 3/29/89
S.I.S. File: L9935-80-1
Claimant: (widow)
Date Reported to SIS: 10/11/81

Date Reported to Client: 10/11/81

Attachments

- Reserve worksheet

Reserve Adequacy

	<u>Incurred</u>	<u>Paid</u>
Indemnity Death benefits 20 yrs @ \$8,140/yr plus \$1,700 funeral expenses	\$ 169,540.12	\$ 0.00
Temporary 20 Wks/\$450 wk.	0.00	0.00
Medical	933.60	933.60
Legal Expense	<u>12,500.00</u>	<u>9,345.30</u>
TOTALS	\$ 182,973.72	\$ 10,278.90

Nature of Claim

The claimant's widow, has brought a claim indicating that, due to employment over 40 some years with Sherwin-Williams/The Eagle Pitcher Company, he was exposed to zinc oxide which aggravated a pre-existing bronchial problem. The widow has alleged that this aggravation over the years eventually caused his death on May 15, 1981.

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REDACTED

N40332

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Verification of Incident

This man had severe pre-existing bronchial problems which plagued him throughout his employment with Sherwin-Williams/Eagle Pitcher Company and prior to this as well. There is a history of lung and respiratory problem in this man's family, and compensability was never accepted.

The most recent decision, that of the Appellate Court, however, has deemed this matter compensable and has allowed death benefits under the Illinois Workers' Compensation Act.

Claimant:

Rural Route 2
Hillsboro, IL 62049

REDACTED

S.S. #:

D.O.B. 9/20/18

Earned an average weekly wage of \$234.81 while employed with Sherwin-Williams, giving him a TTD rate of \$156.54 per week.

On May 23, 1942, he was married to
address. Social Security #:

of the same
D.O.B. 11/11/23.

deceased, date of death: May 15, 1981, caused of death listed on the medical Certificate of Death was cardial respiratory arrest and status asthmatus, no autopsy was performed.

Nature and Extent of Injuries

Medical Management: This man suffered fatal injuries and died May 15, 1981. It is alleged that the reason he died, that being cardial respiratory arrest and status asthmatus, was aggravated by his employment with Sherwin-Williams. This man had a long history of chronic pulmonary problems. This man's father suffered from silicosis of the lungs and died February 19, 1941 from such disease. Another member of his family suffered, in October 1941, from tuberculosis. It's obvious this man had a greater susceptibility to pulmonary problems than the general public, merely due to the family history.

It was opinion of medical experts, however, that the pulmonary problems could have been aggravated by his exposure to zinc oxide while in the employment of Sherwin-Williams/Eagle Pitcher Company, and that is the reason this matter has been found compensable.

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Litigation Management

This man's widow is represented by Mr. John J. Larsen, 818 Olive Street, Suite 1050, St. Louis, Missouri 63101.

Mr. Robert Mueller of Livingston, Mueller, O'Brien & Dablin, 620 East Edeward Street, P.O. Box 335, Springfield, Ill., 62705, is representing the interests of Sherwin-Williams.

This matter went before the Illinois Industrial Commission's arbitrator on October 31, 1985. Arbitrator Clyde Boyd found that the death of the claimant was not causally related to his employment with Sherwin-Williams. The claimant's widow then appealed this matter to the Commission and, on 11/5/86, the Commission reversed the decision of the arbitrator and found that the claimant's death was due to exposure to an occupational hazard arising out of and within the course of his employment with Sherwin-Williams, this exposure aggravating a pre-existing condition and causing his death.

We then requested this decision in writing and appealed this matter up to the Circuit Court. On May 2, 1988, the Circuit Court reaffirmed the original arbitrator's decision and found that this man's death was not related to his employment with Sherwin-Williams. The plaintiff, the claimant's widow, then appealed the matter to the Appellate Court, and on 1/18/89, the Appellate Court reversed the Circuit Court and found in favor of the claimant. All judges hearing the matter concurred with this decision, however, we went ahead and filed a Petition for Rehearing. On March 10, 1989, that petition was denied.

It appears that all of our litigation means have been exhausted. It is now a matter of resolving this claim with hard figures.

According to Gallaher Settlements, the present value of \$156.54 per week for the widow's life expectancy of approximately 20 years would be the area of \$71,000. As of May 15, 1989, eight years of death benefits would have accrued, or \$65,120.64. Gallaher Settlements is forming those figures into a formal proposal and forwarding those to me. Settlement or payout of the decision, at this time, would be cost of an annuity as well as the accrued amounts, would be approximately \$136,120.64.

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We have requested an activities check be done on the widow to determine her health and marital status. Further evaluation on final disposition of this matter will be done when the results of that activities check is received.

Subrogation

As indicated by Mr. Steve Borgstrom, in a report of January 26, 1982, there were no third party possibilities for subrogation purposes, however, nor was there any exposure for losses under Coverage B of the Illinois Workers' Compensation Act.

Client Involvement

Mr. Tony Colangelo has been involved in the decisions on this case since its onset. It was under Tony Colangelo's request that we filed the petition for a new hearing. Tony will continue to be advised of any movements on this case, and we will proceed only according to his authority.

Excess-Reportable

As the reserves indicate this case is now being reported to the excess carrier. By carbon copy of this report to them, they are being updated on the current situation.

Planned Disposition

I will follow up and obtain the formal proposal on the annuity package from Gallaher Settlements. I will also follow up to obtain the results of the activities check by April 15, 1989. Upon receipt of all this, I will evaluate this case and present my recommendations to Mr. Tony Colangelo. Upon his authority, we will proceed accordingly.

I feel this case should be adequately resolved within six months.

Next Report Date

This case will be seen on a 60-day diary until it is closed. It will be seen next May 29, 1989.

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SERVICE

EMPLOYEE BENEFITS

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Adjuster: Christine Nelson

Claims Manager: Sheryl Carver

CN/fr

cc: Tony Colangelo

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A ROLLINS BURDICK HUNTER CORP.

WORKERS' COMPENSATION RESERVE WORKSHEET

EMPLOYEE BENEFITS

Employer Sherrin 11/1/80
Claimant/Employee _____
Employer/Client Sherrin Williams
SIS Claim # 19935-80-1

Date of Accident 5/15/81
Temporary Total Disability Rate 156.00
Permanent Partial Disability Rate APR 5 1989

Temporary Total Disability Paid to Date: N/A 1) \$ _____
Future Temporary Total Disability: 2) \$ _____
Rate _____ x _____ weeks

Temporary Total Disability Reserve A. \$ _____
(1 + 2)

Future Permanent Partial Disability or Settlement: N/A
(Estimated or Actual)
Percentage Loss _____
Rate _____ x _____ weeks = Permanent Partial Disability Reserve B. \$ _____

Death Benefits:

Dependents (Explain calculations in comments) 3) \$ 167840.12
Funeral Benefits 4) \$ 1700.00

Total Death Benefits C. \$ 169540.12
(3 + 4)

TOTAL INDEMNITY RESERVE \$ 169540.12
(A + B + C)

Medical Paid to Date: 5) \$ 933.60

Future Expected Medical:

Doctor \$ _____
Hospital _____
Drugs _____
Mileage _____
Appliances _____
Vocational Rehabilitation _____
Medical Rehabilitation _____

Total Expected Medical: 6) \$ 0

TOTAL MEDICAL RESERVE D. \$ 933.60
(5 + 6)

Claims Expense to Date: 7) \$ 9345.30
Expected Future Claims Expense: 8) \$ 3154.70

TOTAL EXPENSE RESERVE E. \$ 12500.00
(7 + 8)

Date Completed 9/29/81

TOTAL RESERVES (ALL) \$ 182973.72

COMMENTS: Dependent benefits represent 20 years @ 8140.08/yr. 5/15/89,
8 years on 65120.14 in benefits would accrue

N40332.01

Claims Adjuster: Chadson

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Approved By (Sup/Mgr): _____

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