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DOCUMENT DESCRIPTION: Memo RE Defense Attorneys' Efforts to Use Background Files of Selikoff-Hammond Studies to Avert Liability

Memorandum from Barry Castleman to Irving Selikoff

November 5, 1979

Subject: Defense Attorneys' Efforts to Use Background Files
of Selikoff-Hammond Studies to Avert Liability

Ron Motley informs me that the industry lawyers are hoping to get cases thrown out of court by showing that the insulators themselves knew about their job risks. The defendants hope to obtain the questionnaire materials used by you and Dr. Hammond, in the expectation of finding reference to when the men said they first became aware of the dangers of their trade. Ron and other plaintiffs lawyers are afraid that some of the men would have answered with 20-20 hindsight, recalling vaguely that "I heard something back in the early 40's".

Discovery of such statements in writing, even though made without much care and without any knowledge that rights to compensation might be jeopardized, without any consultation with their attorneys, could throw out individual claims; further, a significant number of such statements pre-1964 would hurt the state of the art case for all the plaintiffs.

I don't know what kinds of things might be found in your files and those of ACS (Dr. Hammond) but it strikes me as most important to hold these files confidential and resist efforts to get them released to the defendants. Among other things, the release of such materials could impair your ability to obtain the cooperation of the insulation workers and other trade unions who desperately need your services. From the urgency of Ron's efforts to find me to raise this issue, I gather that defense efforts to gain access to your files is an imminent and serious possibility.

I will try to call in a week or so with more information, and to discuss this matter directly with you.

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Attached are the latest discoveries and notes thereon from Vorwald's files and the Industrial Health Foundation. We now have the correspondence to show that Ken Smith and Ivan Sabourin edited the Braun-Truan study prior to publication. The exchange on J-M Waukegan worker Dominic Bertogliat shows that J-M was aware that workers exposed only to the general in-plant atmosphere were in some cases developing severe asbestosis (1948).

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