

Mr. Terry Eichenseer, Manager
September 20, 1982
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affix a percentage of disability and can order the payment of another 96 weeks of compensation, for a total of 200 weeks. This would come to \$39,042.00.

LIABILITY:

We have discussed this case in detail with Mr. Michael Gordon, attorney. He has informed us that if there was an exposure of the employee to asbestos dust in the air within the last 30 days before the asbestosis was diagnosed, the Industrial Commission probably would find that he had an injurious exposure in the course of his employment at Abex. The attorney was in agreement with us that we should challenge the idea of injurious exposure, and said it would not make a great deal of difference, but that we could challenge the 40% disability. He further indicated that we would not be required to pay any temporary total disability, and that the 104 weeks provided for under Statute GS97-61.5 was not temporary total disability, but simply compensation to be given while the employee is retrained for another job. He further indicated that we might mention in our letter of denial that the employee was capable of performing his job, as well as other duties.

Our denial would allow the employee then to file a claim for disability and group insurance benefits. The attorney indicated that Workers' Comp could not be assigned to protect the disability carrier, but that possibly the disability carrier had some form that could be used to promise a reimbursement.

Mr. Gordon agreed that this would be a case to settle on a clincher agreement, before it got to a hearing.

RESERVES:

We have a \$4,000.00 medical reserve, and had a \$2,500.00 indemnity reserve. Per your advice, we are increasing the indemnity reserve to \$20,000.00.

RECOMMENDATIONS:

We recommended in our last phone conversation that a denial be issued, and that we begin working towards a clincher agreement. We also have requested that the employer furnish us with the level studies on asbestos, as well as the employee's previous medical examination. We have not requested records from the shipyard where the claimant worked in the last 30's and early 40's. Mr. Gordon indicated these probably would not do much good, since asbestos studies were not made at that time.