

BALTIMORE
NEW YORK
CLARKSBURG
TULSA
ST. LOUIS
CHICAGO
LOS ANGELES
ATLANTA
PITTSBURGH
SAN FRANCISCO
NEW ORLEANS
MIAMI
PHILADELPHIA

ALEXANDER & ALEXANDER

INCORPORATED

INSURANCE

AVERAGE ADJUSTERS

CONSULTING ACTUARIES

2225 NORTH CHARLES STREET, BALTIMORE 18, MD.

TELEPHONE
TUXEOD 9-030
BELL SYSTEM
TELETYPE BA 5
CABLE ADDRESS
"ALEXBLUE"

Settled
Dismissed

April 25, 1961

W.L.H. APR 26 1961

Mr. William L. Hughes, Manager
Insurance Department
Armstrong Cork Company
Lancaster, Pennsylvania.

Travelers Policy No. 9-1AB-10514

RUB 3386210

Dear Sir:-

Please note disposition made of the following claim:

Date of Accident: July 17
Claimant: Robert
Location: San Fr
Claim No.: B-8972
Disposition: \$383.06 - Expense

Remarks:

We do not appear to have received a previous report of this case.

Very truly yours,

ALEXANDER & ALEXANDER INC.

G. H. Finley
LOSS DEPARTMENT

Indicate Whether:

Workmen's Comp. y
Auto Liability B.I. _____
P.D. _____
General Liability B.I. _____
P.D. _____

STUART BATEMAN
Admission

Page 1 of 510



D/
INTER
OFFICE COMMUNICATION

1/16
Armstrong CONTRACTING
January 11, 1961

To J. E. Zeller, Lancaster

From A. L. Stokely, San Francisco

Subject Industrial Accident Commission - California
Case No. 59 OAK 1053
Robert F. Cuthbertson

FILED JAN 11 1961

Attached is a copy of a decision after reconsideration recently received by us.

DJM

Red

STUART BATEMAN
Admission

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2

ROBERT F. CUMBERBATCH vs. STATE COMPENSATION INSURANCE FUND, et al

Claud M. Dunn, Referee
December 13, 1960

Claim No. OAK 1053

REPORT OF REFERENCE ON DECISION AFTER RECONSIDERATION

Referee Ankole, who heard practically this entire matter, issued a denial award, the claim being one of asbestosis. The matter was exhaustively handled medically. Subsequent to the submission of the case, the parties agreeing upon an independent medical examiner, H. Corwin Hinshaw, M.D., served in this capacity. The Panel, wishing further exploration of the problem, itself authorized an examination by Sidney Shipman, M.D. It was for the cross-examination of this doctor that the matter was assigned to this Referee.

The three doctors, Hinshaw, Shipman and Brown, are in unanimity in their opinion that the applicant does have asbestos particles in his lungs, but they are non-disabling, do not require treatment, and that the degree of observation required as a result thereof is not any more than anyone else. Based thereon this Referee submits as recommendation to the Panel a ratification of the decision originally issued by Referee Ankole. The same is submitted herewith.

CLAUD M. DUNN, Referee

CMD:bx

STUART EITZMAN
Admission

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3

CUTNER-HYSON--59 OAK 1053

Injury: Asbestosis

CLAUDE M. DUNN, Referee
San Francisco, 7-6-60

REPORT OF REFEREE
ON HEARING AFTER RE-HEARING GRANTED

SIDNEY SHIPMAN, M.D., qualifications stipulated, testified that pursuant to the appointment by the Panel, he had seen the applicant and that there had been made available to him the pathological report, laboratory analysis of lung tissue and the reports of Drs. Watson and Hinshaw.

Testified that there was no demonstrable evidence of asbestosis. There was no disability at that time, but the man did have asbestos particles in the lungs, as well as a fibrosis. As the years go by the man may develop symptoms, but he does not have them now. He does have an occupational foundation therefor.

Complaints of chest pain, vague in location, were compatible with asbestosis, and periodic x-rays, due to the presence in the lungs of the asbestos bodies, were indicated the same as for everyone else working in a similar line of wage earning capacity as the applicant but no greater. Testified that it was his opinion that as yet the man did not have any lung disease. He probably would not have. There was, however, definite evidence of the existence in the man's lungs of asbestos bodies adequate in size to produce the disease. Testified that he made this statement even though the symptoms were not entirely consistent with the diagnosis of asbestosis. He differentiated between silicosis and asbestosis in that silicosis set up a fibrotic reaction which asbestosis did not.

Testified that the applicant ought to have x-rays every six months for several years and then the same every year the same as every other employee similarly employed. Testified it was true that there were bodies present in the lungs and there was some tissue reaction but that these conditions were insufficient to cause disability.

Testified after cross-examination of all the various counsel present that he was still of the same opinion as set forth in his report.

DISPOSITION: (See Minutes of Hearing.)

CMD:lp

CLAUDE M. DUNN, Referee

STUART BATEMAN
Admission

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INTER

OFFICE COMMUNICATION

May 18, 1960

5/18
Armstrong

To J. E. Zaller, Lancaster

From A. L. Stokely, San Francisco

MAY 20 1960 WLH

Subject Robert F. Cuthbertson
vs. Employers
Notice of Time & Place of Further Hearing
Case 59 OAK 1053

Attached is our notification of the Time and Place of Further Hearing for the case of the applicant versus the listed defendants.

You will notice that this was also served on Travelers Insurance Company.

We assume you will want to forward to Armstrong Cork Company's Insurance Department.

DJM

DICK
Per your INTRO.

Red

STUART BATEMAN
Admission

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5

Before the Industrial Accident Commission
of the State of California

Case No. 59 OAK 1053

ROBERT F. CUTHBERTSON,

Applicant....

vs.

PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORK, TRAVELERS INSURANCE COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY, and
STATE COMPENSATION INSURANCE FUND,

Defendant....

Notice of Time
and Place of
Further Hearing

NOTICE TO ALL PARTIES

You are hereby notified that further hearing will be held in the above-entitled action at

ROOM 3202
455 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA
JULY 6, 1960 -- 9:00 A. M.

CROSS EXAMINE OR. SHIPMAN

Dated at:

San Francisco, Calif.
May 16, 1960

ON RECONSIDERATION GRANTED.

INDUSTRIAL ACCIDENT COMMISSION

NOTE: CONTINUANCES AND FURTHER HEARINGS ARE NOT FAVORED.

SERVICE UPON:

Robert F. Cuthbertson, 2436 Garvin Ave., Richmond, Calif.
Smith & Parrish, 501 Financial Center Bldg., Oakland, Calif.
Plant Asbestos, 1300 - 4th St., Emeryville, Calif.
J. T. Thorpe, 1351 Ocean Ave., Emeryville, Calif.
Western Asbestos, 675 Townsend St., San Francisco, Calif.
Armstrong Cork, 304 Shaw Road, San Francisco, Calif.
Travelers Insurance Co., 315 Montgomery St., San Francisco, Calif.
Pacific Employers Insurance Co., 244 Pine St., San Francisco, Calif.
State Compensation Insurance Fund, Personal Service
Industrial Indemnity Co., 350 Sansome St., San Francisco 6, Calif.
Hanna & Propoy, 100 Bush St., San Francisco, Calif.
Hullen & Pilippi, 315 Montgomery St., San Francisco 4, Calif.
Standard Accident Insurance Co., 433 California St., S.F., Calif.

STUART E. ELLMAN

Admission

INTER/

OFFICE COMMUNICATION

Armstrong CONTRACTING
February 11, 1960

To J. E. Zeller, Lancaster

From J. S. Taylor, San Francisco

Subject Order Granting Applicant's Petition
for Reconsideration
Robert F. Cuthbertson vs. Employers

FILE 15-108 WLH

Enclosed notice of granting applicant's petition for reconsideration in connection with the above case.

will
We assume you want to forward this to the Insurance Department.

DJM

Dick
for you 12/10
5415

PT

FORM 31201 1-59

STUART BATEMAN
Admission

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7

Before the Industrial Accident Commission
of the State of California

Case No. 52 OAK 1053

ROBERT F. CUTHBERTSON,

Applicant....

vs.

PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORK, TRAVELERS INSURANCE COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY, and
STATE COMPENSATION INSURANCE FUND,

Defendant....

Notice of Time
and Place of
Further Hearing

STUART GATEMAN
Attorney

Page 4 of 510

NOTICE TO ALL PARTIES

You are hereby notified that further hearing will be held in the above-entitled action at

ROOM 3202
455 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA

JULY 6, 1960 -- 9:00 A. M.

CROSS EXAMINE OR. SHIPMAN

Dated at:

San Francisco, Calif.
May 16, 1960

ON RECONSIDERATION GRANTED.

INDUSTRIAL ACCIDENT COMMISSION

NOTE: CONTINUANCES AND FURTHER HEARINGS ARE NOT FAVORED.

SERVICE UPON:

Robert F. Cuthbertson, 2436 Garvin Ave., Richmond, Calif.
Smith & Parrish, 501 Financial Center Bldg., Oakland, Calif.
Plant Asbestos, 1300 - 4th St., Emeryville, Calif.
J. T. Thorpe, 1351 Ocean Ave., Emeryville, Calif.
Western Asbestos, 675 Townsend St., San Francisco, Calif.
Armstrong Cork, 304 Shaw Road, San Francisco, Calif.
Travelers Insurance Co., 315 Montgomery St., San Francisco, Calif.
Pacific Employers Insurance Co., 244 Pine St., San Francisco, Calif.
State Compensation Insurance Fund, Personal Service
Industrial Indemnity Co., 350 Sanson St., San Francisco 6, Calif.
Hanna & Propoy, 100 Bush St., San Francisco, Calif.
Hullen & Filippi, 315 Montgomery St., San Francisco 4, Calif.
Standard Accident Insurance Co., 433 California St., S.F., Calif.

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ROBERT F. OVERSTREET

v. PLANT ASBESTOS COMPANY,
J. T. THORPE, et al-

May 3, 1960

Case No. CIE 1958

REPORT OF PANEL AND

Payment to request dated April 22, 1960, by applicants,
the case should be returned to the calendar for recon-
sideration of Mr. Stigma, the independent medical
examiner.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F. A. LAWRENCE

Mailed From San Francisco Office

ELTON C. LAWLESS

MAY 4 1960

Industrial Accident Commission
State of California

EDWARD J. THOMAS, JR. *et al*

STUART BATTMAN
Admission

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INTER/

OFFICE COMMUNICATION

5/11 RL
Armstrong CONTRACTING

May 6, 1960

To J. E. Zeller, Lancaster

From A. L. Stokely, San Francisco

Subject Robert F. Cuthbertson
vs. Employers

As indicated to you in John Taylor's communication of February 11th, the applicant's petition for reconsideration on his case was granted.

We attach the notification from the Industrial Accident Commission of the State of California that the case should be returned to the calendar of this commission.

We assume that you will forward this to Armstrong Cork Company's Insurance Department.

DJM

Make for your info
5/10
Rob

FORM 31301 1-56

STUDY OF STAIN
Admission

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9

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFOR

2 CASE NO. OAK 1053

3
4 ROBERT F. CUTHBERTSON,

5 Applicant

6 v.

7 PLANT ASBESTOS COMPANY, J. T. THORPE,
8 WESTERN ASBESTOS COMPANY, ARMSTRONG
9 CORK, TRAVELERS INSURANCE COMPANY,
10 INDUSTRIAL INDEMNITY COMPANY,
11 PACIFIC EMPLOYERS INSURANCE COMPANY,
12 STANDARD ACCIDENT INSURANCE COMPANY
and STATE COMPENSATION INSURANCE FUND,

13 Defendants

ORDER GRANTING APPLICANT
PETITION FOR RECONSIDERAT

Mailed from San Francisco Office
JAN 11 - 1960
Industrial Accident Commission
State of California

14 GOOD CAUSE APPEARING THEREFOR,

15 IT IS ORDERED that applicant's Petition for Reconsiderat
16 filed herein January 4, 1960, be, and the same hereby is, grant

17 INDUSTRIAL ACCIDENT COMMISSION
18 OF THE STATE OF CALIFORNIA

19 F. A. LAWRENCE

20 ELTON C. LAWLESS

21 EDMUND J. THOMAS, JR.,

22 Deputy
Commissioner

23 Commissioner

24 STUART BATHMAN
Admission

ROBERT F. CUTHBERTSON . v.

PLANT ASBESTOS
COMPANY, et al

January 28, 1960

Case No. OAK 1053

REPORT OF PANEL ONE

The Panel is of the opinion that a report of an independent medical examiner will be of assistance to it in the determination of the issue presented.

The Petition for Reconsideration is therefore granted to obtain the opinion of such an examiner, if the parties so agree.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

W. A. LAWRENCE

ELTON C. LAWLESS

COMMISSIONER J. THOMAS, JR.

Commissioners

STUART E. HAN
Admission

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11

JOHN H. ANKLE, REFEREE
Oakland 1-22-60

CUMMERTON—CLAIM NO. OAK 1052
Injury: Asbestosis

**REPORT OF REFEREE ON APPLICANT'S
PETITION FOR RECONSIDERATION
Due date: February 3, 1960**

The employee, an insulator, born May 4, 1928, claims to have sustained an asbestosis.

After hearings, Findings and Order to the effect that applicant did not sustain any injury arising out of or occurring in the course of his employment was served and filed on December 15, 1959.

From this decision applicant petitions for reconsideration contending that the evidence does not justify the denial.

The preponderance of medical evidence in this case clearly indicates that the applicant does not have asbestosis.

It is noted that the applicant quotes from the report of the pathologist as follows:

"Asbestos body disposition is moderately advanced."

This is definitely not a finding of asbestosis.

Applicant also quotes from some portions of the testimony of Dr. Crumshaw.

However, the conclusion of H. Corwin Hinchey, M. D. is to the effect that applicant does not have asbestosis. This is also the conclusion of Cabot Brown, M. D. in his report of November 19, 1959. Dr. Brown was the agreed examiner.

The Answers filed by the various defendants herein are well taken and applicant's Petition for Reconsideration should be denied.

It might further be observed that the opinions of Dr. Hinchey and Dr. Brown should be good news to the applicant who is working at his old job.

JOHN H. ANKLE, Referee

STUART D. FARMAN
Admission

JHA:re

ROBERT D. CUMMERTON

vs.

PLANT ASBESTOS
COMPANY, et al

December 29, 1960

CASE NO. 59 OAK 1033

REPORT OF PANEL ONE

Based upon the report dated March 30, 1960 by Dr. Shipman, Independent Medical Examiner, it is the conclusion of the Panel that applicant did not sustain injury arising out of his employments from July 1947 through December 1958. The Panel further concludes that the disability complained of by applicant was not caused by any injury arising out of and occurring in the course of his employments.

Decision After Reconsideration should accordingly issue.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F. A. LAWRENCE

ELTON C. LAWLESS

Commissioners

STUART BREMAN
Admission

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13

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CASE NO. 59 OAK 1033

ROBERT F. CUTHBERTSON

Applicant

vs

PLANT ASBESTOS COMPANY, J. T.
THORPE, WESTERN ASBESTOS COMPANY,
ARMSTRONG CORP., TRAVELERS INSURANCE
COMPANY, INDUSTRIAL INDEMNITY
COMPANY, PACIFIC EMPLOYERS
INSURANCE COMPANY, STANDARD
ACCIDENT INSURANCE COMPANY, and
STATE COMPENSATION INSURANCE FUND

Defendants

DECISION
AFTER RECONSIDERATION

Mailed from San Francisco Office

JAN 4 1961

Industrial Accident Commission
State of California

Reconsideration having been granted herein and the matter having been carefully considered, including the report of examination by the Independent Medical Examiner, as well as the record as a whole, this Commission now concludes that further proceedings are not essential for the disposition of the claim, and makes its Decision After Reconsideration, as follows:

GOOD CASES APPEARING THEREFOR,

IT IS ORDERED that the Findings and Order, filed here December 13, 1959 be, and the same hereby is, affirmed and adopted as the Decision After Reconsideration.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F. A. LAWRENCE

ELTON C. LAWLESS

Commissioners

STUART BETHMAN
Admission

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14

RCJ

DICK
You'll BE
INTERESTED IN
THE ATTACHED

5/1/60

INTER/
OFFICE COMMUNICATION

December 23, 1959 (A)rmstrong

To J. Zeller, Lancaster

From J. S. Taylor, San Francisco

Subject Notice of Findings & Order
Industrial Accident Commission of
the State of California
Robert F. Cuthbertson

Enclosed findings and order resulting from the claim of Robert F. Cuthbertson vs. various local insulation contractors pertaining to an Asbestosis claim.

You will recall earlier in the year we received from the Armstrong Cork Company a detailed listing of employment of this applicant with the request that we substantiate the products used by him during his tenure of employment and report same to Mr. Richard E. Beaudry, Insurance Adjustor.

I assume you will want to notify the Cork Company of this findings and order.

DJM

JS T

STUART DATTMAN
Admission

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15

FILED AND SERVED: Dec 15 1959
On all parties of
record--R.Crowley

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
2 CLAIM NO. OAK 1053
3
4 ROBERT P. CUTHBERTSON)
5 Applicant)
6 vs.)
7 PLANT ASBESTOS COMPANY, J. T. THORPE,)
WESTERN ASBESTOS COMPANY, ARMSTRONG) FINDINGS AND ORDER
8 CORK, TRAVELERS INSURANCE COMPANY,)
INDUSTRIAL INDEMNITY COMPANY,)
9 PACIFIC EMPLOYERS INSURANCE COMPANY,)
STANDARD ACCIDENT INSURANCE COMPANY,)
10 and STATE COMPENSATION INSURANCE FUND)
11 Defendants)

12
13 The above entitled matter having been regularly submitted
14 before John H. Ankels, Referee, said Referee now makes his decision
15 as follows:

16 FINDINGS OF FACT

- 17 1. The applicant was employed by the various employers
18 above named from July, 1947 through December, 1958, and alleges
19 that he sustained an injury arising out of and occurring in the
20 course of his said employments, consisting of asbestosis.
21 2. Applicant did not sustain any injury arising out of
22 or occurring in the course of his employments from July, 1947 through
23 December, 1958.
24 3. The disability of which applicant complains was not
25 proximately caused, or caused at all, by any injury arising out of
26 or occurring in the course of his employments, or by his employments.

27 ORDER

28 IT IS HEREBY ORDERED that applicant take nothing by
29 reason of his claim asserted in this proceeding.
30

JEA:rc
OAK 1053

JOHN H. ANKELS, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

STUART BATEMAN
Admission

JOHN H. ANKELK, Referee
Oakland, August 13, 1959

CUTHBERTSON -- 59 OAK 1053
Injury: Asbestosis

REPORT OF REFEREE

The employee, an insulator, born May 4, 1928, claims to have contracted asbestosis as a result of his employment. Nothing has been paid.

ISSUES:

1. Injury.
2. Medical.
3. Statute of limitations.
4. Lack of notice and prejudice.
5. Jurisdiction -- maritime.

APPLICANT testified in substance as follows:

He obtained the employment records from the union and the employers.

In July of 1947 he started to work for the Plant Asbestos Company and worked through January of 1948. The period of employment was about seven months. He worked on ships for this employer, and cork was used for insulation.

He worked for J. T. Thorpe from May to December, 1948, applying asbestos insulation on one job in Tracy and one at Hunter's Point, a power house at PG&E. He cut and fitted asbestos material and used wire and mud in the application. This work went through January of 1949. The places where he worked were enclosed and there would be dust there. Others were on the job.

He then worked for the Western Asbestos Company from January, 1949, to May of 1949. On that job there was also some insulation of asbestos material for PG&E, and also for the Union Oil Company.

Then he worked again for J. T. Thorpe from May 11th through August 10, 1949. This work included Fibreboard Products at Antioch. The work was all in an enclosed area. It was hot and dusty, and there was dust from asbestos material.

From August 11, 1949, through February, 1950, he worked for Plant Asbestos and the work was at Fibreboard Products at Antioch. The work was the same and the conditions the same.

From March 13, 1950, to August 3, 1950, he worked for the Western Asbestos Company on a PG&E power house at Moss Landing. This was the same type of asbestos insulation, and it was in enclosed and dusty places.

On August 20, 1950, to September 3, 1950, he again worked for Plant Asbestos at Calland Laundry. This job was very hot and dusty.

From September 13, 1950, to July 17, 1954, he worked for the Armstrong Cork Company.

There were about nine months at the PG&E plant in Antioch in 1950 and he worked at Travis Air Force Base most of the balance of the time. Also he worked in this period at Regal Pale for two months where they used cork insulation, and there were other smaller jobs during this interval. The PG&E power house job was very hot, and

STUART CATHMAN
Admission

Cuthbertson - 2

he worked for Plant Asbestos Company which was all asbestos work at various schools, and he worked continually for Plant Asbestos through December, 1958, except when he was off on account of a leg-injury in 1957. The work was all asbestos work, mostly in boiler rooms and close quarters.

He saw Dr. Crenshaw on July 29, 1958, on reference from Dr. Lawrence, his family doctor. He had seen Dr. Lawrence two or three weeks before and he did have pneumonia in February, 1958. He had surgery at Richmond Hospital on August 3, 1958, and he was advised by Dr. Crenshaw following the surgery that his condition was due to his work. He had worked through August 10, 1958, and was off three months, and he returned to work at Plant Asbestos on November 4, 1958.

Before his surgery there were no masks worn on the job. He is doing the same type of insulation work now but wears a mask when on the job, continuously. He has slowed down physically and he hurts all the time.

He did not work on the Burgermeister Brewery for Armstrong but he did work at Napa State Hospital for Armstrong. That was asbestos insulation work and living quarters, all underneath the building. He did not use wool felt there.

He recalls working at the State Employment Building in San Francisco for about a week, insulating the storage tank.

He does not remember doing the job at Borden's Dairy in Oakland but he could have been on that job.

He worked in a radio transmission station between Davis and Winter one day. He did not work on the Camp Beale job. He worked at a refinery in Rodeo two weeks or so in tunnels under the highway, insulating.

The Travis Air Force Base job took nearly two years. There was some wool felt used on that job, but mostly asbestos.

He believes that McKeesby and Madison were the manufacturers of the asbestos pipe covering, and it is known as magnesia pipe covering, eighty-five per cent magnesium. They use some Fibreglass, and up to 1953 or 1954 he does not remember if they used any Johns-Manville products. On heating pipes they generally use asbestos pipe covering.

He has a twin brother named Jack and he worked with his brother at all times, and they were inseparable. He knew his brother had surgery at the hands of Dr. Crenshaw, and he had Dr. Thompson check him after his second operation in 1954. At that time Dr. Thompson had X-rays taken. He did go to Dr. Thompson to see if there was any danger about his having asbestosis. He went two or three times. He is not sure when the second X-rays were taken.

When he had pneumonia he changed to Dr. Brown. When he first saw Dr. Brown he had tightness of the chest and pain. He had X-rays taken at Richmond Hospital at that time for pneumonia. He informed Dr. Brown that his brother had lung trouble but he did not inform Dr. Brown of the previous check-ups he had at the hands of Dr. Thompson.

It was after he got out of the hospital from his own surgery that Dr. Crenshaw told him he had asbestosis.

STUART GATTMAN
Admission

Page 19 of 510

18

Cuthbertson - 3

He informed the Plant Asbestos Company that he was going to the hospital. He believes that Blue Cross paid most of the medical bills and some of Dr. Crenshaw's bill. He paid about \$50. in hospital bills.

He drew unemployment disability benefits at \$50. a week all the time he was off, and he also received \$12. a day for hospitalization.

He knew that his brother Jack had a proceeding before the Industrial Accident Commission.

He understands that diatomaceous earth is the same as asbestos.

When he saw Dr. Thompson for a chest check-up he had no chest pains. At that time he was working for Armstrong Cork. Dr. Thompson told him everything looked all right.

In May or June, 1958, he began having chest complaints. He stopped smoking on the advice of Dr. Crenshaw. He was troubled with shortness of breath last year. He was off a week after he returned to work in November, 1958, and then he was off another week because of his chest.

The eighty-five per cent magnesium pipe covering that they used is manufactured by Fabco. They always use Fabco materials.

He did not lose any time before August of 1958 because of his chest. -

He also worked in some old buildings for Plant Asbestos. He did not have pneumonia before February, 1958. He did refuse to work on a job recently because they did not have a blow fan.

He is still under Dr. Crenshaw's care. His present complaints are in effect that: he has slowed down, he has some pain, he cannot sleep as well, and it is hard to work.

He has been a foreman since 1954 on.

J. T. Thorpe was all block work and that ^{was} worse in respect to dust. This was eighty-five per cent magnesium pipe covering. It was made by Fabco.

He has covered all the employers for which he worked but he does not remember all the odd jobs.

He worked along with his brother from 1949 through all of 1950. He does not do home insulation.

Prior to 1947 he was an able-bodied seaman in the Merchant Marine, and he did not have a history of having a lot of colds. He perhaps would get one or two a year. In his bout with pneumonia he was in Richmond Hospital about three weeks and stayed home about six weeks. He felt fairly good after that.

He cannot pinpoint the time when his chest pain developed. It was either in May or June of 1958. He got so bad he saw a doctor in July.

It can be very dusty when they cut asbestos. They cut it on the job as they went along, and the pounding and fitting would always cause dust.

STUART BATEMAN
Admission

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A

Cuthbertson - 5

PAUL NIETO, called by Defendant Industrial Indemnity Company, testified in substance as follows: He is vice president of Plant Abbotson. He has been with them for 12 years. He knows Cuthbertson, and has known him for the last six years. He is familiar with the over-all materials used by the company. They use 35% magnesium pipe covering, fibreglass and wool felt. They also use foam glass, cork, and air cell covering. He does not know the breakdown or content of 35% magnesium pipe covering, but there is a certain amount of asbestos material. The asbestos materials would be adhesives and cements. The last two years they primarily would be fibreglass materials. Five or six years ago Cuthbertson worked under his direct supervision. He then had no lung complaints. He had heard that Jack Cuthbertson, the applicant's brother, had lung trouble, and that the applicant was troubled and worried. They do not manufacture the pipe covering but they buy most of it from Fabco. They use 85% magnesium powder cement, which they mixed with water in the work.

GERALD CRENshaw, M.D., testified in behalf of the applicant in substance as follows: He is duly licensed to practice medicine in the State of California. His specialty is diseases of the chest. Asbestosis caused the applicant's disability as it caused an improper bronchial drainage. A piece of lung taken out at the lobectomy indicated the presence of asbestos fibres. The applicant was still under his care. His various employments were the only places where he could have gotten asbestos in his lungs, and he will need observation for some period of time.

He first saw the applicant July 29, 1958. He never took a complete work history but he had a history of recurrent attacks of pneumonia previously last year. There were X-rays taken in October 1953, November 1954 and March 1956. He can not tell if he had all those X-rays but he attempted to get them. He does not remember if he reviewed the reports at Herrick Hospital. The X-rays taken at the Richmond Hospital on August 15, 1958. A bronchoscopy was made on August 13, 1958. He certainly saw an X-ray report before the operation. The X-rays show an infiltration but they did not demonstrate what the infiltration was. He submitted the lung tissue to the pathologist at the Richmond Hospital and received a report as indicated in the hospital record. A specimen was then sent to the laboratory of the State Department of Health. He never received a written report from the State laboratory but he received an oral report from Dr. Singman, a pathologist.

Dr. Crenshaw was recalled in the afternoon, and testified further in substance as follows: The applicant returned to work roughly two months after the surgery. He generally sees him once a month unless he is suffering from respiratory infection. He must be properly treated. He gives him pressure breathing and antibiotics. Antibiotics were prescribed on February 16, 1959 because there was a respiratory infection and a sore throat. Also treated him February 20, 1959. At that time he felt he was getting over the infection. In June of 1959 he had a 100 degree temperature and further antibiotics were prescribed.

This is the third asbestosis case that he has had in his experience. Othercases were that of applicant's brother and a Mr. Thorsted. Their employment record was similar to that of Cuthbertson, in fact, Cuthbertson's work history was identical.

STUART EATMAN
Admission

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Cuthbertson - 4

OAKLAND
October 22, 1959.

RICHARD R. BEAUDRY, called by the Defendants Travelers Insurance Company and Standard Accident, testified in substance as follows: He is an independent insurance adjuster. He reviewed the job records on which the applicant worked between 1950 and 1954 at the Armstrong Cork office. He worked with J. S. Taylor, the plant manager. A tabulation was made in the home office in response to a letter of August 3, 1959 (Defts. Ex. 5). The information under the column "Materials" was made as the result of his investigation of the obtainable contracts. The percentage in this column "Materials" stated the amount of material used on the job and not their content. The initials MPC stood for magnesium pipe covering; E3 for "fibreglass." Where there is a dash in the materials column, the contract could not be found. He made a special study on the job at Travis Air Force Base. These were marked as indicated by the X's. This tabulation supposedly covers all of applicant's employment with Armstrong Cork.

VICTOR SAGUES was called by the Defendants Travelers Insurance Company and Standard Accident, and testified in substance as follows: He is the president of the Saccamo Manufacturing Company. They manufacture pipe insulation, pump packings and the like. He has had 25 years of experience. He started in 1934 with the Plant Rubber & Asbestos Company, and worked with them until April 1, 1948, when their factory was bought by Saccamo Manufacturing Company. They manufacture wool felt insulation. They obtain their materials from other manufacturers. They use crepe wool felt, which is laminated, and then covered by asbestos paper. This is then covered with muslin and the muslin will overlap about one and one-half inches at one end of a 36 inch section. Wool felt is about 30% rag base, and 50 to 60% wood pulp of the kraft stock. Next to the pipe there is a water-proof tangifier. The asbestos paper is a six pound asbestos paper, and is filled within the wool felt paper for a three inch thick wall. 13 to 14 layers of wool felt are used. This is the standard wall. They will have smaller and larger walls on the insulation. The asbestos paper is 40 to 50% asbestos fibre. The balance is wood pulp and Kraft stock. There are fillers and sizing to give the stiffness. In the manufacture of air cell insulation, they use a six pound asbestos, which is corrugated, and then four layers are laminated to build up a one inch wall. Adhesive used is silicate of soda, sometimes known as water glass. This is also wrapped with a muslin and put out in 36 inch lengths with an inch and a half muslin overlap. The wool felt insulation is generally used on cold lines. The air cell insulation is used on hot water lines. The insulation material is cut with knives, table saws or hand saws. The joints are probably attached with asbestos cement. He did not know because he does not install any covering. Unibestos is made of amosite asbestos fibre, with bundles of sodium silicate. Amosite is a long asbestos fibre that is mined in South Africa. These fibres are as long as five and six inches. White asbestos or chrysotile is mined in greater abundance in Canada. These fibres are about 3/8ths inches in length. He is familiar with the 35% magnesium pipe covering.

STUART BATEMAN
ADMINISTRATOR

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The biopsy was major surgery, and was diagnostic. He did not feel that fibreglass had a great effect. Recent surgery indicates that it should be avoided. He told the applicant that he had asbestosis right after the surgery. Asbestos within the lung impairs the function of the lung. Elastic fibres of the lung are affected.

DAVID SINGMAN, M.D., called by the Defendant Travelers Insurance and Standard Accident, testified in substance as follows: He is duly licensed to practice medicine in the State of California. His specialty is pathology. He does the pathology at Richmond Hospital. He received the specimen indicated by the hospital report. He does not know the exact number of actual specimens. He submitted specimens to the State Department of Health on December 8, 1958 at the request of Dr. Crenshaw. He brought them up to the Department of Health himself. He also received the report of J.I. Soave, a doctor of veterinary medicine. He was then called to Sacramento, where they had special X-ray diffraction apparatus, and the quantity of formed asbestos was even demonstrated in the tissues, as indicated by the report of the State Department of Health. It follows therefore, that there was asbestos in the lungs but not enough to show in ordinary X-ray technique. He can not tell from the report as to the quantities of materials found. He called Dr. Crenshaw when he received the report, but he can not recall if he sent copies of the state report to Dr. Crenshaw but he usually does.

If Dr. Crenshaw did not get a written copy of the report the fault was that of the witness. He, himself, did not see any abnormality of the bronchii if it is not in his report. Dr. Crenshaw was unhappy with his first pathological report because Dr. Crenshaw had expected to find asbestos, and therefore, suggested that it be sent to the State. Fibrosis is usually found in asbestosis cases as is usual in silicosis cases and generally, the particles can be seen. Most of the noxious agents that affect the lung will cause fibrosis.

ROBERT CUTHBERTSON, recalled, and testified in his own behalf as follows: He did not work at the Pacific Coast Portland Cement plant on May 11, 1952, nor on the Walnut Creek School on June 29, 1952, nor at Camp Beale on May 3, 1953. It was the practice of the company to shift the payroll records to another job when there was a loss on a job from which the payroll report was submitted. He recalls all the jobs in the tabulation except the three he mentioned. He is not a cork man so he does not use too much cork. He believes that he just used cork for about a week in his employment with Armstrong.

DISCUSSION AND DECISION:

On December 3, 1959 the report of Cabot Brown, M. D., the agreed medical examiner, was served and filed.

It would appear that the report of Dr. Brown resolves any apparent medical conflict heretofore existing in this case. Dr. Brown concluded that the applicant does not have asbestosis. Therefore, a denial must issue.

JOHN H. ANKLE, Referee

JHA:afs/wa/rc

STUART D. MAN
Admission

August 14, 1959

Mr. J. S. Taylor
Armstrong Contracting and Supply Corporation
524 Shaw Road
South San Francisco, Calif.

Dear Mr. Taylor:

In case you did not receive a copy of the Bendry & Wilson letter, we enclose a Thermo-Fax and carbon copy containing part of the information requested in the Bendry & Wilson letter.

Records for the year 1958 have been destroyed so that the Payroll Department listed only those contracts worked on by E. E. Gathertman starting in 1951. Arthur Boardman, Comptroller's Department, then listed with whom and where we had the contract. Where the information is not entered, Arthur was unable to locate the particular files. Thought perhaps your files might disclose this information in which case you could complete the information Bendry & Wilson is looking for.

In view of the first sentence in the last paragraph, page one, of Mr. Bendry's letter, will you please contact him at your earliest convenience.

Very truly yours,

ARMSTRONG CORP COMPANY

R. G. Schick, Jr.
Insurance Department

JMS

Enclosures

J. E. Taylor, ASAC, Lancaster

STUART BENTRY
ARMSTRONG

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HANNA & BROPHY • INSURANCE ADJUSTORS

420 MARKET STREET • SAN FRANCISCO 11, CALIFORNIA • EXR002 7-4171

August 3, 1959

The Armstrong Cork Company
Lancaster, Pennsylvania

Attn: R. C. Schiedt, Jr.
Insurance Dept.

RE: Robert F. Cuthbertson vs. Armstrong
Cork Company
Our File: 59-199

Gentlemen:

We have been assigned to do some investigation work on the above case by Mr. Ivan Schwab of Hanna & Brophy's office, who are handling the hearing before the Industrial Accident Commission for the Traveler's and Standard Accident Insurance Companies. This case has been set for August 13, 1959.

In order for us to complete our investigation, it is necessary that we obtain some information from you and also a letter which can be submitted to the Industrial Accident Commission in the event we are unable to prepare the case in time. The information we require is the name and number of each job Mr. Cuthbertson was employed upon during the period September 13, 1950 to July 17, 1954. With this job name and number, we can then obtain the necessary information from your local office, Armstrong Contracting and Supply Company, which will enable us to determine what type of materials were used and handled by Mr. Cuthbertson.

As you know, Mr. Cuthbertson has filed a claim for asbestoses. We are trying to determine the amount of materials he handled containing asbestos, and the amount not containing asbestos.

The above information as to the name and number of the job should be sent directly to us as soon as possible. In the meantime, we would appreciate your writing a letter direct to Mr. Ivan Schwab, Attorney, Hanna & Brophy, 1540 San Pablo Avenue, Oakland, California, stating that there will be some delay in developing the information in this case. Please include in your letter the reasons for this delay, i.e., distance involved and inaccessability of the records.

STUART B. SWAN
Attorney

Mr. Schwab can then use this letter at the time of the hearing on August 13, 1959, to request an extension of time and another hearing, in the event our investigation is not completed. Thank you for your courteous and prompt reply in this matter.

Cordially yours,

BEAUDRY & WILSON

Richard E. Beaudry
Richard E. Beaudry

REB:ms

STUART PATTERMAN
ADMINISTRATOR

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Robert F. Cuthbertson 568-28-7686
San Francisco

Hired - 9-6-50 out 5-12-52 strike

6-2-52 6-27-52 vac.

7-28-52 9-2-53 strike

9-30-53 7-14-54 quit

STUNCE
Admission

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1-10-54	270 058	Times No 205, Saline
2-28-54	270 207	J. M. McClinchen Co. San Neale - Family Farm Bros, Maryland
3-7-54	270 205	Geotina Foods, Los Angeles - Boston
3-28-54	270 297	Rockinson & Rowe, D. F. - D. F. Wernel Hayward, D. F.
4-4-54	270 203	Rockinson & Rowe, D. F. - D. F. Hayward, D. F.
4-18-54	49 907	Rockinson & Rowe, D. F. - D. F. Hayward, D. F.
5-2-54	270 223	Rockinson & Rowe, D. F. - D. F. Hayward, D. F.
5-23-54	270 307	Rockinson & Rowe, D. F. - D. F. Hayward, D. F.
6-13-54	270 369	Rockinson & Rowe, D. F. - D. F. Hayward, D. F.

1970-1971

T 8-18-59

August 9, 1959

Mr. Ivan Schuch
Simma & Breyer
2949 San Pablo Avenue
Oakland, Calif.

Dear Mr. Schuch:

Subject: Robert F. Guthrie vs. Armstrong
Cook Company

To find the job of accumulating the detailed information you requested in connection with the claim of Robert F. Guthrie for the years 1950, 1951, 1952, 1953, and 1954 will take longer than we had estimated.

In addition to the San Francisco office, several different departments here in Lancaster are involved, and with this month's vacations, we believe it could be the end of August before the information can be accumulated.

We trust this delay will not seriously inconvenience you, and we will make every effort to supply you with the information as promptly as possible.

Very truly yours,

ARMSTRONG COOK COMPANY

STUART BATEMAN
Admission

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JES

R. G. Schmitt, Jr.
Insurance Department

Reamery & Wilson
420 Market Street
San Francisco 11, Calif.

J. S. Taylor, AGAS, San Francisco
J. R. Zeller, AGAS, Lancaster

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July 29, 1959

Essex and Company
1540 San Pablo Avenue
Oakland, California

Gentlemen:

Subject: ~~Essex and Company~~
Re: Robert P. Garthwaite
Insuring Cost Company
W/A 7-14-54

The Travelers Oakland office requested that we send you, in triplicate, the earnings record of Robert P. Garthwaite during the years insured by Travelers under its compensation policies. Photostats covering the years 1942, 1943 and 1944 are enclosed.

His duties as a skilled insulation mechanic include the application of various types of pipe coverings and block insulation, job site fabrication of fittings, and the use of insulating concrete. The products used are manufactured from a number of different basic materials including, in part, cork covering, asbestos felt, magnesium carbonate reinforced with asbestos fibers, distempered silica combined with a mineral filler and clay mineral wool.

We have your attorneys both in your San Francisco and Oakland offices have had considerable experience handling asbestos claims. However, if you require more details regarding working conditions, etc., please contact our Mr. J. L. Taylor, manager of the San Francisco office of Insulating Contracting and Supply Corporation, a wholly owned subsidiary of Insuring Cost Company, whose address is 104 Shaw Road, South San Francisco.

Very truly yours,

INSURING COST COMPANY

H. G. Schmidt, Jr.
Insurance Department

Enclosures

J. L. Taylor, Mgr., Lancaster
J. L. Taylor, Mgr., San Francisco

H. L. Brock, Travelers attorney
Oakland (104)

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W. B. Hoffer

INTER

OFFICE COMMUNICATION

Armstrong CONTRACTING
July 22, 1959

To J. E. Zeller, Lancaster
From J. S. Taylor, San Francisco
Subject Robert F. Cuthbertson
Request for information

Enclosed are duplicate copies of Travelers Insurance letter dated July 21st which is self explanatory.

It is our understanding that this will be handled by the Armstrong Cork Company's Insurance Department. If we can be of any further help, please let us know.

DJM

J. G. Murphy, Sacramento

P.S. Please forward the original copy to Armstrongs Cork Company for their action.

PT

FORM 31301 1-59

STUART BATEMAN
Admission

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The Travelers

*The Travelers Insurance Company
The Travelers Indemnity Company*

CLAIMS DEPARTMENT
L. A. JOHNS, Claims Manager

BRANCH OFFICE
1956 Webster Street
OAKLAND 12, CALIFORNIA
Telephone TElephone 2-8200

July 21, 1959

Armstrong Cork Company,
304 Shaw Road,
San Francisco, California.

B-8972691
Re: Robert F. Cuthbertson
Armstrong Cork Co.
d/a 7-14-54

Gentlemen:

Please submit a statement, in quadruplicate, indicating all inclusive dates of Mr. Cuthbertson's employment; his salary (by the hourly wage and gross for the years 1953 and 1954; whether he was hired as a regular or temporary employee; his job title and a brief resume of his duties; whether his duties brought him into contact with asbestos, and if so, to what degree; whether or not he was exposed to other materials which might have a deleterious effect upon the lungs over a period of time, and if so, the nature of the substance and the degree of exposure; and whether or not Mr. Cuthbertson ever made any complaint with respect to exposure to deleterious substances or alleged ill ness as a result of alleged exposure.

Please forward the original and two copies direct to our attorneys, Hanna and Brophy, 1540 San Pablo Avenue, Oakland, Calif., with the third carbon copy to this office.

Your prompt and complete cooperation with our counsel is earnestly solicited, as this matter is set for a hearing before the Industrial Accident Commission on August 13, 1959.

Very truly yours,

N. H. Abreu
N. H. Abreu
Adjuster

NH:JW

cc: Hanna & Brophy, Oakland

STUART E. EMMAN
Admission

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The Travelers

CLAIM DEPARTMENT
1 A JONES, Oak Harbor

*The Travelers Insurance Company
The Travelers Indemnity Company*

July 21, 1959

BRANCH OFFICE
1934 Webster Street
OAKLAND 12, CALIFORNIA
Telephone BRanch 2-8700

Armstrong Cork Company,
304 Shaw Road,
San Francisco, California.

B-8972691
Re: Robert P. Cuthbertson
Armstrong Cork Co.
d/a 7-1A-54

Gentlemen:

Please submit a statement, in quadruplicate, indicating all inclusive dates of Mr. Cuthbertson's employment; his salary (by the hourly wage and gross for the years 1953 and 1954; whether he was hired as a regular or temporary employee; his job title and a brief resume of his duties; whether his duties brought him into contact with asbestos, and if so, to what degree; whether or not he was exposed to other materials which might have a deleterious effect upon the lungs over a period of time, and if so, the nature of the substance and the degree of exposure; and whether or not Mr. Cuthbertson ever made any complaint with respect to exposure to deleterious substances or alleged ill ness as a result of alleged exposure.

Please forward the original and two copies direct to our attorneys, Hanna and Dreyfus, 1540 San Pablo Avenue, Oakland, Calif., with the third carbon copy to this office.

Your prompt and complete cooperation with our counsel is earnestly solicited, as this matter is set for a hearing before the Industrial Accident Commission on August 13, 1959.

Very truly yours,

M. H. Abreu
M. H. Abreu
Adjuster

[Signature]
cc: Hanna & Dreyfus, Oakland

STUART BATEMAN
Admission

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B. Culbertson

Mr. Culbertson was employed periodically by
the company as an Asbestos Worker during
the time indicated below.

His duties as an asbestos worker included the
application of various types of pipe coverings &
insulations, job site fabrication of fittings on
the use of insulating cements. These jobs
are manufactured from a number of different
basic materials including asbestos felt, magnesia
carbonate reinforced with asbestos fibers, diatomaceous
silica combined with mineral filler, slag or
wool, etc.

The degree of exposure to asbestos dust
is minimal since there is no noticeable concentration
of dust over prolonged periods of time when it
is such conditions are necessary.

on computer etc.

Disc: rough - up is a
This is just a
you can see the
you want to work 7/21

STUART BATEMAN
Admission

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SYMBOL OF SERVICE FOR 75 YEARS

Standard Accident Insurance Company

INCORPORATED 1884

CASUALTY • FIRE • MARINE • FIDELITY • SURETY

NORTHERN CALIFORNIA BRANCH OFFICE

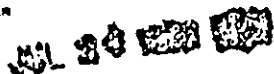
840 WEST SAN BRUNO AVENUE

SAN BRUNO, CALIF.

JULY 22, 1959

PHONE JUNG 3-4000

ROY W. SMITH
MANAGER



AIR MAIL

ARMSTRONG CORK COMPANY
LANCASTER, PENNSYLVANIA

ATTN: R. C. SCHIEDT, JR.
INSURANCE DEPT.

Re: 96-C 960794

ARMSTRONG CORK COMPANY

ROBERT F. CUTHBERTSON

DATE OF DISABILITY: 8-1-58

POLICY: AZ 688800

2-1-58 to 1-1-59

GENTLEMEN:

YOU WILL RECALL THAT ON JUNE 15, 1959 WE ASKED YOUR HELP REGARDING EMPLOYMENT RECORD OF ROY THORSTED AND WHICH WE DULY RECEIVED AND FOR WHICH WE THANK YOU. NOW WE MUST CALL ON YOU AGAIN FOR THE EMPLOYMENT RECORD OF THE ABOVE CAPTIONED CLAIMANT WHO IS NOW PRESENTING A CLAIM FOR ASBESTOSIS.

THE EMPLOYMENT RECORD WE HAVE RECEIVED INDICATES MR. CUTHBERTSON WORKED FOR YOUR COMPANY FROM SEPTEMBER 13, 1950 THROUGH JULY 17, 1954 INCLUSIVELY. WE ARE ENCLOSING ENOUGH FORMS FOR YOU TO COMPLETE FOR THIS ENTIRE 5 YEAR PERIOD AND ASK THAT YOU RETURN TO US AS SOON AS POSSIBLE INASMUCH HEARING BEFORE THE INDUSTRIAL ACCIDENT COMMISSION IS SET FOR AUGUST 13, 1959.

WE WISH TO THANK YOU FOR YOUR COURTESY AND COOPERATION FOR THIS AND PAST REQUESTS ON THESE CLAIMS.

VERY TRULY YOURS,

Vera E. Dowling

VERA E. DOWLING

CLAIM REPRESENTATIVE

VED/MS
ENCLs.

CC: V.L.P. SHRIVER AGENCY
CC: HANNA & BROPHY, ATTORNEYS

STUART EATEMAN
Admission

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WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT N. MAC LEAN
JOHN A. MAC DONALD
EDWARD P. MC ALTER
HERBERT C. JENSEN
EDWARD W. JENSEN
J. M. MC ELRATH
THOMAS B. RICHARDSON
DONALD V. MITCHELL
GEORGE W. BOWNEY

LAW OFFICES OF
HANNA & BROPHY
1840 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TELEGRAM 2-8868

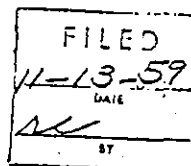
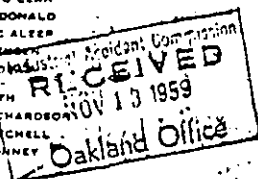
hry
San Francisco Office
100 BUSH STREET
SAN FRANCISCO 4

Second Office
SECURITY BANK BLDG
Fresno 21, Calif.

SACRAMENTO OFFICE
400 J STREET
SACRAMENTO 14, CALIF.

SAN JOSE OFFICE
2000 HEDDING STREET
SAN JOSE 28, CALIF.

November 12, 1959



Dr. Cabot Brown
450 Sutter Street
San Francisco, Calif.

Re: Robert P. Cuthbertson vs.
Plant Asbestos Co., et al

Dear Doctor Brown:

Cal 1053
We have made an appointment for you to examine the above named applicant on November 19, 1959, at 3:00 P.M.

Robert P. Cuthbertson filed a claim with the Industrial Accident Commission, alleging that he sustained disability and required medical treatment for asbestosis resulting from his work in installing insulation materials which contained asbestos, during the years 1947-1958. The claim was assigned for hearing and decision to Referee John H. Apkele, Industrial Accident Commission, 577 - 14th Street, Oakland. The applicant is represented by Smith, Parrish, Paduck & Clancy, Financial Center Building, Oakland.

From 1954 to 1958, the applicant worked for Plant Asbestos Company, which was insured during that period of time by Industrial Indemnity Company. Patrick M. Maloney is the attorney for that insurance carrier.

From September 6, 1950, to July 14, 1954, the applicant worked for Armstrong Cork Company. Standard Accident Insurance Company was the insurance carrier for Armstrong Cork Company until January 1, 1952, and Travelers Insurance Company was the insurance carrier from that date until the termination of the employment. We appear as attorneys for both insurance carriers.

From 1947 until September, 1950, the applicant worked for Plant Asbestos Company, J. T. Thorpe & Company, and Western Asbestos Company. Plant Asbestos Company and J. T. Thorpe & Company were

Page two - 11/12/59
Re: Robert F. Guthbertson vs.
Plant Asbestos, et al

insured by Pacific Employers Insurance Company. Mullen & Filippi are the attorneys for that insurance carrier. Western Asbestos Company was insured by State Compensation Insurance Fund. James V. Bursnell is the attorney for that insurance carrier.

Enclosed please find the medical file. You will note that the defendants submitted reports from Dr. W. Corwin Hinshaw which include reports received by Dr. Hinshaw from Dr. L. Henry Garland and Dr. George A. Watson. The applicant submitted reports of Dr. Gerald L. Crenshaw, and Dr. Crenshaw also testified at a hearing on October 22, 1959.

In view of the medical conflict that exists, Referee Ankele requested the attorneys in the case to agree upon a doctor to examine the applicant and submit a comprehensive report, with the understanding that all parties should be given an opportunity to submit any specific questions they desire covered to the doctor selected. Accordingly, you will probably receive further inquiries from all, or some, of the attorneys named above. Referee Ankele requests that you incorporate in your report a general discussion as to the nature of the disease of asbestosis, with particular reference to the type and size of fibres that cause damage, the extent and degree of exposure required, the time after the inhalation of particles within which symptoms become manifest to the individual, the nature of the symptoms which first develop and the nature of the disability resulting, and the manner in which the disease of asbestosis differs from silicosis.

The evidence establishes that in his work the applicant used magnesia pipe covering, wool felt pipe covering, Aircell pipe covering, Unibestos insulation, and fibreglass insulation. Magnesia pipe covering contains from 10% to 12% asbestos fibre, the rest being basic magnesium carbonate. Wool felt pipe covering is manufactured with an inside tar liner next to the pipe, next a series of layers of wool felt paper sheet, then an outer wrap of asbestos paper, and finally a muslin cover. The wool felt paper is composed of approximately 30% wood pulp fibre, 60% Kraft paper pulp, and 10% sizing and waterproofing materials such as waxes. The asbestos paper outer wrap is composed of 50% to 60% asbestos fibre, and 30% to 40% wood pulp and Kraft paper pulp.

Aircell pipe covering is made by corrugating asbestos paper and then laminating the corrugated sheets. Under separate cover, we are sending you a section of wool felt pipe covering

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Re: Robert F. Cuthbertson vs.
Plant Asbestos, et al

and a section of Aircell pipe covering so that you can see for yourself what these two products were like in the condition in which they were when received by the applicant for installation.

The only information disclosed by the manufacturers of Unibestos insulation is that it is approximately 70% Amosite asbestos. An expert witness has testified that Amosite asbestos is mined in South Africa, and has a much longer fibre than the asbestos used in the other materials, which comes from Canada. The fibres in the Canadian asbestos are 3/8 inches or less in length.

I also enclose a tabulation showing all jobs on which the applicant worked for Armstrong Cork Company, and the material used on those jobs (APC means magnesite pipe covering and PG means fibreglass). The applicant denies that he was employed on two of these jobs, as follows:

5/11/52-Pacific Portland Cement Co.
6/29/52-Buena Vista School.

In the medical file, you will find a report of Dr. A. R. Thompson, dated September 8, 1953, giving x-ray readings on films taken October 10, 1953, November 13, 1953, and March 17, 1956. (We will endeavor to get all x-ray films, including these, and the specimens submitted to the pathologist to you as promptly as possible.) Robert P. Cuthbertson had a twin brother (not an identical twin) who did the same type of work, and Dr. Gerald Crenshaw performed a biopsy on the twin brother in 1953. For that reason, the applicant had check-up x-ray films taken from time to time.

You will also find in the file two reports from the Department of Public Health, State of California. One report is by O. A. Soave, D.V.M., dated December 10, 1958, and the second is by William Thielen, dated December 31, 1958. These cover samples of lung tissue submitted by Dr. David Singman, the pathologist at Richmond Hospital, where Dr. Gerald Crenshaw performed a lobectomy on August 13, 1958. The Richmond Hospital records have been received in evidence, and the medical file includes a photostatic copy. I regret the blurred condition of the copy of the hospital records, but I believe that the pathological report of Dr. Singman is sufficiently clear that you can read it without difficulty.

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Page four - 11/12/59

Re: Robert F. Cuthbertson vs.
Plant Asbestos, et al

Here are the specific questions to which I would like to have an answer:

1. In his report of October 12, 1959, Dr. W. Corwin Rinshaw states:

"Doctor Watson's findings confirm the patient's statement that he has inhaled asbestos fibers. The inhalation and the deposition of asbestos fibers does not by itself constitute evidence of disabling or necessarily significant occupational pulmonary disease. It would be predictable, that any person long engaged in the handling of asbestos materials would collect asbestos fibers in his lungs which would be detected if a sufficient amount of lung tissue were examined. It must be emphasized that the presence of these fibers bears no relation to the degree of injury, if any, and that other methods of examination must be relied upon to determine whether significant pulmonary disease is present. The function of lung biopsy in cases such as this should be to determine the nature of serious injury and disability when such disability has first been demonstrated. Biopsy serves no useful purpose whatever in a situation such as this where there is no clinical, physiological or radiological evidence of disabling pulmonary disease."

Do you agree or disagree with these statements? If you agree in part and disagree in part, will you please indicate the areas of agreement and disagreement. To the extent that you disagree, will you please state the reasons for your disagreement.

2. Dr. Singman has referred to an excerpt from Fairhall, Industrial Toxicology, Second Edition - 1957, which contains the following quotation:

"The fibrogenic action differs from that of silica in that the effects are produced only by long asbestos fibers, while the very short asbestos fibers appear to have little or no effect. The long fibers apparently block the finer bronchioles and produce fibrotic changes as a result of irritation."

What are the maximum and minimum lengths of fibers that do produce harmful effects? In his report of December 31, 1958, William Thiesen states that the needle-like crystals in the sample sub-

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Re: Robert F. Cuthbertson vs.
Plant Asbestos, et al

mitted to him ranged in size from less than 10 microns to over 100 microns in length and from one to five microns in width.

3. Employment by Armstrong Cork Company, which is the only employer with whom I am concerned, terminated July 14, 1954, and the applicant did not experience any symptoms sufficient to prompt him to consult Dr. Crenshaw until August, 1958. Considering the time element and all available information as to the quantity of fibers present and the condition of the lung tissue as disclosed at the time of operation, are you able to express an opinion as to when the fibers that were found were inhaled?

4. Is there, in the literature on the subject, any recorded instance of asbestosis among workers handling materials containing asbestos in the percentages contained in the materials handled by Mr. Cuthbertson, as distinguished from factory workers engaged in the manufacturing of asbestos products or miners engaged in the mining of asbestos?

If you desire to use the services of a roentgenologist or a pathologist, you are authorized to do so.

If you will forward all copies of your report, and your bill, to this office, I will arrange for filing of the report with the Industrial Accident Commission, the service of copies, and the payment of your bill.

Very truly yours,

Ivan A. Schwab

IAS:ER
Encs.

c.c. Referee John H. Ankele
c.c. Smith, Parrish, Paduck & Clancy
c.c. Patrick H. Maloney
c.c. Hullen & Filippi
c.c. James V. Burchell - State Fund

000161

MEMBERS
OF FIRM

EDWIN A. CLANCY, JR.
JOHN B. LEWIS
C. PAUL PADUCK
WM. SHARON PARRISH
JOSEPH EDWARD SMITH
DEAN W. WRIGHT

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING • 408-14TH STREET • OAKLAND 12, CALIFORNIA

November 11, 1959

Oakland Office

INDUSTRIAL ACCIDENTS

FILED

NOV 12 1959

Oakland Office

Mr. John H. Ankele, Referee
Industrial Accident Commission
577 - 14th Street
Oakland, California

Industrial Indemnity Co.
268 Grand Avenue
Oakland, California

Hanna & Brophy
Attorneys at Law
1540 San Pablo Avenue
Oakland, California

State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

Mullen & Filippi
Attorneys at Law
315 Montgomery Street
San Francisco, Calif.

Re: ROBERT CUTHBERTSON

1053

Dear Mr. Ankele:

The parties have agreed Dr. Cabot Brown be an impartial medical examiner in the above case. We have ordered a transcript of Dr. Crenshaw's testimony and would request the transcript be immediately prepared so the doctor may have it when he renders his opinion.

Very truly yours,

JOSEPH E. SMITH

JES:rb

0001 52

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

---oOo---

ROBERT F. CUTHBERTSON,

Applicant,

vs.

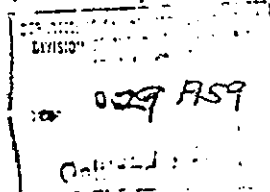
PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORK, TRAVELERS INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
and STATE COMPENSATION INSURANCE FUND,

Defendants.

No. 59 OAK 1053

MINUTES OF HEARING

(CONTINUED)



PLACE & TIME: Oakland October 22, 1959 9:00 a.m.

REFEREE: ANKELE
REPORTER: SMITH

APPEARANCES: Applicant:

Present
SMITH, PARRISH, PADUCK & CLANCY
By JOSEPH E. SMITH, Esq.

Deft. Travelers and Standard: HANNA & BROPHY
By IVAN A. SCHWAB, Esq.

Deft. Industrial Indemnity: PATRICK R. MALONEY, Esq.

Deft. State Fund: JAMES V. BURCHELL, Esq.

Deft. Pacific Employers: MULLEN & FILIPPI
By JOHN MOORE, Esq.

WITNESSES: Richard E. Beaudry (Deft. Travelers and Standard Accident)
Victor Sagues (Deft. Travelers and Standard Accident) (App)
Paul Nieto (Deft. Industrial Indemnity)
Gerald L. Crenshaw, M.D. (App)
David Singman, M.D. (Deft. Travelers and Standard Accident)
Robert F. Cuthbertson (App)

ADDITIONAL ISSUE: Litigation costs

IT IS HEREBY ORDERED that the defendant Union Mutual Life Insurance Company be and they are hereby dismissed as not being a proper party defendant.

APPLICANT'S 1 Letter, Western Asbestos, to State Fund, 9-24-59
2 Report, Dr. Crenshaw, 5-25-59, and bill, \$790.00
DEPENDANTS' 4 Letter, 9-10-59, KEASBEY & MATTISON CO. to Beaudry & Wilson
5 List of jobs where applicant worked
Letter, 8-14-59, Schiedt to Taylor
Letter, 8-3-59, Beaudry to Schiedt
6 Report, W.C.Thielen, 12-31-58
O.A.Soave, DVM, 12-10-58
7 Report, Dr. Hinshaw, 10-12-59, 9-22-59
8 Report, Dr. Thompson, 9-8-59
Alcor S. Browne, PhD, 9-14-59
9 Hospital records

000113

DISPOSITION: The parties will agree upon an agreed medical examiner
by next Wednesday, and thereafter they shall have 45 days
to serve and file a report of such agreed medical examiner;
the case then to stand submitted without further proceedings.

135 pp
10-22-59

333.20

WESTERN ASBESTOS CO.

ESTABLISHED 1908

SAN FRANCISCO • OAKLAND • STOCKTON • NO. SACRAMENTO • FRESNO • SAN JOSE • SANTA RA

General Office: 575 Townsend Street • Klondike B-3888

San Francisco 3, California

September 24, 1959

AMPS #1
#1053

State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

Attention: Mr. Cullen

SUBJECT: Robert F. Cuthbertson

Gentlemen:

In reply to your telephone request, we have contacted the Superintendent for whom Mr. Cuthbertson worked during the 8-1/2 months he was with us.

As far as we can ascertain, Mr. Cuthbertson worked in the oil refineries at Richmond doing pipe covering and boiler jobs. This type of work requires the use of mostly 85% Magnesia Pipe Covering and Blocks.

We trust this is the information desired.

Very truly yours,

WESTERN ASBESTOS CO.

H. E. Simons

HES:ar

H. E. Simons

✓

OL
11/12
3611

000131

GERALD L. CRENSHAW, M.D.
447 TWENTY-NINTH STREET
OAKLAND 9, CALIFORNIA
TELEPHONE OLENDUET 1-8048

May 25, 1959

Joseph E. Smith, Attorney at Law
Smith, Parrish, Paduck and Clancy
Financial Center Building
405 - 14th Street
Oakland 12
California

Dear Mr. Smith:

Re: Robert F. Cuthbertson

Mr. Cuthbertson consulted me in July of 1958 because of persistent severe pain in the right chest. He had a slight productive cough and dyspnea on exertion and while at rest. The patient gave a history of having worked in an asbestos plant for many years.

A partial lobectomy was performed at Richmond Hospital on August 13, 1958. On examination of the lung at surgery there were gritty fibrous nodules palpable throughout the entire lung. The right middle lobe was resected as well as a nodule from the diaphragm. Partial pleurectomy was performed also.

The specimens of lung tissue were sent to the Health Department for study of the asbestos content and the report was positive for asbestos.

Very truly yours,



Gerald L. Crenshaw, M.D.

GLC:jg
Enclosure

0001-55

GERALD L. CRENSHAW, M.D.
447 TWENTY-NINTH STREET
OAKLAND 8, CALIFORNIA
TELEPHONE OAKLAND 1-8088

May 25, 1959

To: Robert Cuthbertson
2438 Garvin Avenue
Richmond, California

7 -29-58	Consultation	25.00
	Complete blood count and sed rate	8.00
	Urinalysis	2.00
	Coccidioidin and histoplasmin skin tests (\$5.00 ea.)	10.00
7 -31-58	Office call	5.00
8 -11-58	Office call	5.00
8-13-58	Bronchoscopy	75.00
	Right lobectomy	400.00
8 -22-58	Post-op visit	
	Complete blood count and sed rate	8.00
8 -25-58	Intermittent positive pressure breathing	1.50
8 -27-58	I. P. P. B.	1.50
8 -28-58	I. P. P. B.	1.50
9 -2-58	I. P. P. B.	1.50
9 -4-58	I. P. P. B.	1.50
9 -6-58	I. P. P. B.	1.50
9 -8-58	I. P. P. B.	1.50
9-12-58	I. P. P. B.	1.50
9 -15-58	I. P. P. B.	1.50
9 -20-58	I. P. P. B.	1.50
9 -22-58	I. P. P. B.	1.50
	Office call	5.00
9 -24-58	I. P. P. B.	1.50
9 -26-58	I. P. P. B.	1.50
9 -29-58	I. P. P. B.	1.50
	PA and lateral chest x-ray	14.00
10- 1-58	I. P. P. B.	1.50
10- 3-58	I. P. P. B.	1.50
10-13-58	Office call	5.00
10-27-58	Office call	5.00
10-30-58	Office call	5.00

000176

GERALD L. CRENSHAW, M.D.
447 TWENTYNINTH STREET
OAKLAND 9, CALIFORNIA
TELEPHONE OLENDUR 1-5049
May 25, 1959

To: Robert Cuthbertson (Continued)

11-28-58	Office call	5.00
	PA and lateral chest x-ray	14.50
12-12-58	Office call	5.00
1 -10-59	Office call	5.00
2 -11-59	I.P.P.B.	1.50
	Lamp and vaccine	3.00
2 -9 -59	Office call	5.00
	PA and lateral chest x-ray	14.00
2-13-59	I.P.P.B.	1.50
	Lamp and vaccine	3.00
2-16 -59	I.P.P.B.	1.50
	Lamp and vaccine	3.00
	Strep and cerocillin	6.50
2-18 -59	Lamp and vaccine	3.00
	Strep and cerocillin	6.50
2-20 -59	I.P.P.B.	1.50
	Lamp and vaccine	3.00
	Office call	5.00
2-24 -59	I.P.P.B.	1.50
	Lamp and vaccine	3.00
2-26 -59	I.P.P.B.	1.50
	Lamp and vaccine	3.00
2-28 -59	I.P.P.B.	1.50
	Lamp and vaccine	3.00
3- 4 -59	I.P.P.B.	1.50
	Lamp and vaccine	3.00

000147

GERALD L. CRENSHAW, M.D.
447 TWENTY-NINTH STREET
OAKLAND 9 CALIFORNIA
TELEPHONE OLENEHURST 1-4048
May 25, 1959

To: Robert Cuthbertson (Continued)

2-6-59	I.P.P.B.	\$	1.50
	Lamp and vaccine		3.00
	Office call		5.00
3-9-59	I.P.P.B.		1.50
	Lamp and vaccine		3.00
3-11-59	Lamp and vaccine		3.00
	Strep and cerocillin		6.50
3-13-59	Lamp and vaccine		3.00
	Strep and cerocillin		6.50
3-16-59	I.P.P.B.		1.50
	Lamp and vaccine		3.00
	Strep and cerocillin		6.50
3-21-59	Office call		5.00
	I.P.P.B.		1.50
5-9-59	Office call		5.00
	I.P.P.B.		1.50
	PA and lateral chest X-ray		14.00
5-11-59	Office call		5.00
	I.P.P.B.		1.50
5-12-59	I.P.P.B.		1.50
5-15-59	I.P.P.B.		1.50
5-18-59	Office call		5.00
	L.P.P.B.		1.50
5-20-59	I.P.P.B.		1.50
	Total:	\$	790.00

(1001 500)



KEASBEY & MATTISON COMPANY

Manufacturers of Asbestos, Magnesia and Asphalt Products

AMBLER, PENNSYLVANIA

September 10, 1959

Beaudry & Wilson
Insurance Adjustors
420 Market Street
San Francisco 11, California

Attn: Mr. Richard E. Beaudry

Re: Magnesia Pipe Coverings
Your File: 59-199

Gentlemen:

With reference to your letter of August 25, we are unable to send you any literature on magnesia pipe coverings since we discontinued manufacturing this commodity approximately one year ago.

The typical 85% magnesia pipe covering contains about 12% fiber and 88% basic magnesium carbonate. Certain percentages of the fiber might be Amosite and Chrysotile. Such blends of fiber could vary from time to time, but on an average, it represents 12%.

You have asked us to give our comments on the feasibility of asbestos dust coming off such material when installing the same.

We, as manufacturers, do not apply or install pipe coverings. This work is usually done by the contractors or applicators. It would be our assumption that the amount of dust would in all probability be insignificant because in a good many instances insulation is covered with canvas jackets prior to shipment into the field.

Very truly yours,

KEASBEY & MATTISON COMPANY


D. Stenaker
Assistant to the
General Sales Manager

ES:md

000149

Fibreboard

Paper Products Corporation

P. O. BOX 4331 • OAKLAND 23, CALIFORNIA

October 16, 1959

Mullen and Fillipi
Attorneys at Law
315 Montgomery Street
San Francisco 4, California

Attention: Mr. John W. Moore

In re: Robert Cuthbertson vs. Plant Asbestos and Pacific
74 C 61582 Employers Insurance
Company IAC #59 OAK 1053

Dear Mr. Moore:

You requested through Mr. J. C. Voiles, General Manager Insulation Division, the constituents of the material known in the insulations trade as 85% Magnesia.

This material when analyzed in accordance with Federal Specification HH-I-554 Paragraph 4.3.2 results in the following constituents:

1. Hygroscopic Moisture	1.2
2. Asbestos Fiber	10.8
3. R_2O_3	.71
4. Lime as CaO	0.12
5. Magnesia calculated as:	
a. $4Mg CO_3 (Mg (OH)_2) \cdot 5H_2O$	95.5
b. $3Mg CO_3 (Mg (OH)_2) \cdot 3H_2O$	89.5
6. Loss on Ignition	45.6
7. Carbon Dioxide	30.0

Yours very truly,

FIBREBOARD PAPER PRODUCTS CORPORATION

E. W. Forbohn
E. W. Forbohn
Manager Insulations Manufacture
Emeryville, California

EW:ph
cc: Mr. J. C. Voiles



FIBREBOARD SHIPPING CONTAINERS • PAPERBOARD • FOLDING CARTONS • SPECIALTY PACKAGES AND PACKAGING MATERIALS
PAROQ ROOFING • GYPSUM • ASBESTOS-CEMENT • PAINTS • FLOOR COVERINGS • INDUSTRIAL INSULATIONS

000150

Cont.

Eng. S. 1893

Cont. 24

3-23-52	100% C. M.	46 725	Acad. Anty. Quarry Co. San Fran. Cal.	James
4-6-52		46 727	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
		46 729	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
		46 731	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
4-20-52	100% M. C.	46 733	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
		46 735	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
5-4-52	100% M. C.	46 737	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
5-11-52	100% M. C.	46 739	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
6-1-52	100% M. C.	46 741	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
6-15-52	100% M. C.	46 743	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
6-28-52	100% M. C.	46 745	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
7-3-52	100% M. C.	46 747	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
7-28-52	100% M. C.	46 749	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
8-5-52	100% M. C.	46 751	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
9-2-52	100% M. C.	46 753	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
9-28-52	100% M. C.	46 755	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
10-5-52	100% M. C.	46 757	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
10-28-52	100% M. C.	46 759	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
11-5-52	100% M. C.	46 761	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
11-28-52	100% M. C.	46 763	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
12-5-52	100% M. C.	46 765	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
12-28-52	100% M. C.	46 767	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
1-5-53	100% M. C.	46 769	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
1-28-53	100% M. C.	46 771	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
2-5-53	100% M. C.	46 773	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
2-28-53	100% M. C.	46 775	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
3-5-53	100% M. C.	46 777	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
3-28-53	100% M. C.	46 779	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
4-5-53	100% M. C.	46 781	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
4-28-53	100% M. C.	46 783	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
5-5-53	100% M. C.	46 785	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
5-28-53	100% M. C.	46 787	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
6-5-53	100% M. C.	46 789	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.
6-28-53	100% M. C.	46 791	Acad. Anty. Quarry Co. San Fran. Cal.	Walter G. M. 1893, San Fran. Cal.

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End

Page 10

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Altitude	Locality	Notes
6-21-53	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
7-5-53	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
7-12-53	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
11-8-53	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
1-10-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
3-27-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
3-21-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
4-1-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
4-18-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
5-2-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
5-23-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.
6-13-54	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.	35 ft M.P.C. 35 ft M.P.C. 35 ft M.P.C.



LANCASTER, PENNSYLVANIA

August 14, 1959

Mr. J. S. Taylor
Armstrong Contracting and Supply Corporation
304 Shaw Road
South San Francisco, Calif.

Dear Mr. Taylor:

In case you did not receive a copy of the Beaudry & Wilson letter, we enclose a Thermo-Fax and worksheets containing part of the information requested in the Beaudry & Wilson letter.

Records for the year 1950 have been destroyed so that the Payroll Department listed only those contracts worked on by R. F. Cuthbertson starting in 1951. Arthur Boardman, Controller's Department, then listed with whom and where we had the contract. Where the information is not entered, Arthur was unable to locate the particular files. Thought perhaps your files might disclose this information in which case you could complete the information Beaudry & Wilson is looking for.

In view of the first sentence in the last paragraph, page one, of Mr. Beaudry's letter, will you please contact him at your earliest convenience.

Very truly yours,

ARMSTRONG CORK COMPANY

R. C. Schiedt, Jr.
R. C. Schiedt, Jr.
Insurance Department

JEZ

Enclosures

J. E. Zeller, AC&S, Lancaster



000151



BEAUDRY & WILSON • INSURANCE ADJUSTERS

420 MARKET STREET • SAN FRANCISCO 11, CALIFORNIA • EX-6664 7-4171

August 3, 1959

The Armstrong Cork Company
Lancaster, Pennsylvania

Attn: E. C. Schiedt, Jr.
Insurance Dept.

RE: Robert F. Cuthbertson vs. Armstrong
Cork Company
Our File: 59-199

Gentlemen:

We have been assigned to do some investigation work on the above case by Mr. Ivan Schwab of Hanna & Brophy's office, who are handling the hearing before the Industrial Accident Commission for the Traveler's and Standard Accident Insurance Companies. This case has been set for August 13, 1959.

In order for us to complete our investigation, it is necessary that we obtain some information from you and also a letter which can be submitted to the Industrial Accident Commission in the event we are unable to prepare the case in time. The information we require is the name and number of each job Mr. Cuthbertson was employed upon during the period September 13, 1950 to July 17, 1954. With this job name and number, we can then obtain the necessary information from your local office, Armstrong Contracting and Supply Company, which will enable us to determine what type of materials were used and handled by Mr. Cuthbertson.

As you know, Mr. Cuthbertson has filed a claim for asbestosis. We are trying to determine the amount of materials he handled containing asbestos, and the amount not containing asbestos.

The above information as to the name and number of the job should be sent directly to us as soon as possible. In the meantime, we would appreciate your writing a letter direct to Mr. Ivan Schwab, Attorney, Hanna & Brophy, 1540 San Pablo Avenue, Oakland, California, stating that there will be some delay in developing the information in this case. Please include in your letter the reasons for this delay, i.e., distance involved and inaccessibility of the records.

000155

Mr. Schwab can then use this letter at the time of the hearing on August 13, 1959, to request an extension of time and another hearing, in the event our investigation is not completed. Thank you for your courteous and prompt reply in this matter.

Cordially yours,

BRANDY & WILSON

Richard E. Brandy

REB:ms

✓

000156

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

RECEIVED

DEC 31 1958

BUREAU OF ADULT HEALTH

MEMORANDUM

To: Bureau of Adult Health
Attention: Dr. Christine Minert

Date: December 31, 1958

From: Air and Industrial Hygiene Laboratory

Subject: Laboratory Sample B-736 (lung tissue)

This sample, as received, consisted of four pieces of undifferentiated tissue preserved in dilute formalin. Since quantitation was not requested no sample weight was recorded. Small pieces approximately 1 cm square were removed at random from each of the pieces of tissue and forwarded to the Virus laboratory for histopathological examination. A copy of the report of this examination is attached. The balance of the sample was retained in this laboratory for identification of asbestos.

The sample was macerated in a Waring blender and filtered through Whatman No. 41 filter paper, the filtrate being discarded. The material remaining on the paper was dried in a vacuum oven at 50°C. The dried material was then ashed according to the method used by King and Nagelschmidt. To avoid contamination ashing was done entirely in platinum ware.

A small portion of the ash was taken for microscopic examination, the balance was retained for X-ray diffraction analysis.

Microscopic examination of the lung ash showed the presence of considerable numbers of needle like crystals ranging in size from less than 10 microns to over 100 microns in length and from 1 to 5 microns in width (see attached photomicrographs). Particles this shape are atypical of quartz but quite consistent with certain of the asbestos group of minerals. While Petrographic measurements on crystals this size are not too precise, certain observations were obtained as follows:

1. Extinction - oblique
2. Extinction angle - 12°- 16°
3. Sign - (-)
4. Birefringence - .015 (estimated only due to small crystal size)

000157

BAH 8-736

-2-

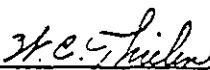
December 31, 1958

These values are in good agreement with those given for Tremolite in Elements of Optical Mineralogy, Part II, Winchell and Winchell.

X-ray diffraction analysis was made using powder camera technique and Iron K alpha radiation. Examination of the diffraction pattern showed the presence of:

1. Quartz
2. Hornblende
3. Actinolite
4. Tremolite
5. Asphobite

With the exception of quartz these are all minerals of the asbestos group.


William Thielen, Assistant P. H. Chemist

000154

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH



MEMORANDUM

To: Wm. Theilen
Industrial Hygiene Laboratory

Through: Edwin H. Lennette, M.D.

From: O. A. Soave, D.V.M.
Virus Laboratory

Subject: Human lung, bronchus (8-66, S-736) from Industrial Hygiene Lab.

Date: December 10, 1958

In reference to tissues submitted for histopathological examination, the only pathology seen was in the lung. Here there was a good deal of passive congestion, small foci of carbon granules but not enough to be significant. The major abnormality was the presence of granulomatous areas with lymphocytes, epithelioid cells and fibroblasts. As granulomatous lesions may form due to many causes, it is not possible to incriminate any one, i.e., tuberculosis, coccidioidomycosis, and certain irritants or toxins.

The other tissues, bronchi and bronchiole, appeared normal.

O. A. Soave
O. A. Soave, D.V.M.
Asst. Public Health Veterinarian

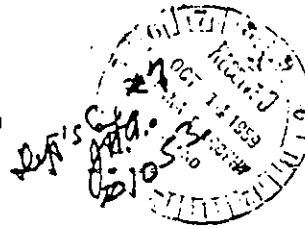
OAS:js

000159

M. CORWIN HINSHAW, M.D.
HORTON C. HINSHAW, JR., M.D.
450 BUTTER STREET
SAN FRANCISCO 8, CALIFORNIA

TELEPHONE
VUCOH 2-7168

12 October 1959



FROM H. Corwin Hinshaw, M.D.

TO Hanna and Brophy
1540 San Pablo Avenue
Oakland 12, California

SUBJECT Mr. Robert F. Cuthbertson vs.
Armstrong Cork Company, et. al.
CONSULTATIONS ON FILMS AND TISSUES EXAMINED BY
L. H. GARLAND, M.D., Radiology Consultant and GEORGE WATSON, MD.,
Pathology Consultant

I have received the following letter from Doctor L. H. Garland.

"Regarding Cuthbertson, Mr. Robert, the following are consultation reports on the submitted films of the chest:

10.10.53 (Herrick Hospital). The heart vessel shadow is normal in size and position. The bronchovascular markings are of the fairly heavy type, apparently consistent with the patient's build. The diaphragm is normal in position and outline. There is no x-ray evidence diagnostic of occupational pulmonary disease.

11.13.54 (Herrick Hospital). No significant change.

3.17.56 (Herrick Hospital). No significant change.

9.10.59 (Your Office). There are some irregular scarlike opacities in the right lower lung field, presumably secondary to the reported lung biopsy. In the stereoscope there are some prominent vessels in the right upper lung field. You have kindly informed us that fluoroscopically the diaphragm shows normal excursion.

Conclusion: No x-ray evidence of occupational pulmonary disease (silicosis or asbestosis).

Thanking you for submitting these films for consultation, I am "
Yours sincerely,

L/H

L. H. Garland, M.B.

000169

Page 2
From
To
Subject

12 October 1959
H. Corwin Hinshaw, M.D.
Hanna and Brophy
Mr. Robert F. Cuthbertson

Doctor Garland's opinion adds substantially to the evidence summarized in my previous report dated September 22, 1959 that Mr. Cuthbertson does not have x-ray evidence of asbestosis and therefore is not suffering from any disabling occupational disorder of the lungs.

Report of Doctor George A. Watson, Pathology Consultant

CLINICAL SUMMARY This patient has worked for many years, he states, in the asbestos industry including time spent for Armstrong-Cork and Western Asbestos. He has a twin brother similarly exposed who has been judged disabled due to lung pathology. There was an episode of bilateral acute pneumonia for which the patient was hospitalized from February 21, 1958 to the early part of March 1958. He has some residual pathology apparently an incompletely resolved pneumonia and on August 13, 1958 had a partial lobectomy. The surgeon, Doctor Crenshaw, gave the diagnosis of asbestosis but the pathologist made no mention of such condition.

MICROSCOPIC EXAMINATION Two of the three available slides show portions of a thick, membranous tissue apparently with a serosal lining. This is composed of dense, relatively acellular collagen with a rare cluster of lymphocytes but no other features of interest. This is taken to be pleura, although the origin is not certainly known. The third slide consists of two segments of lung parenchyma together having an area of approximately 0.6 cm.². It includes a portion of thickened pleura which is composed of coarse, collagenous strands rather wavy with plump light staining, uniform, intervening fibroblasts. The parenchyma displays consistent features throughout. The alveolar walls are thickened and the lumina largely obliterated. Lining cells are prominent with plump oval nuclei but not actually hypertrophied, the change being due simply to modified tension from collapse. The thickened septa are occupied by the plump lining cells on each base with a few fibroblasts and collagenous strands intervening. The lumina are filled with mononuclear cells having oval, finely granular nuclei and abundant, cytoplasm which commonly contains light brown, granular pigment. There is very little carbon pigment present or anisotropic material. Scattered throughout are a number of brown, hyalin, rod-shaped bodies generally occurring in clusters. They are characteristically tapered and commonly nodular at the wider extremity. There are approximately 243 clusters of asbestos bodies per square centimeter of tissue section.

DIAGNOSIS: 1. ASBESTOS BODY DEPOSITION, MODERATELY ADVANCED,
LUNG
2. ATELECTASIS, LUNG

NOTE The asbestos bodies are quite numerous but do not appear to have excited much tissue reaction. Most of the alteration seen in these sections is attributed to atelectasis, although the basis for the latter is not evident in this

000105

Page 3 12 October 1959
From H. Corwin Hinshaw, M.D.
To Hanna and Brophy
Subject Mr. Robert F. Cuthbertson

Pathology Report (continued)

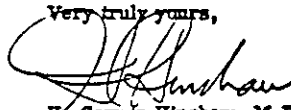
Limited sample.

GAW/bc

George A. Watson, M.D.
Pathologist

Doctor Watson's findings confirm the patient's statement that he has inhaled asbestos fibers. The inhalation and the deposition of asbestos fibers does not by itself constitute evidence of disabling or necessarily significant occupational pulmonary disease. It would be predictable, that any person long engaged in the handling of asbestos materials would collect asbestos fibers in his lungs which would be detected if a sufficient amount of lung tissue were examined. It must be emphasized that the presence of these fibers bears no relation to the degree of injury, if any, and that other methods of examination must be relied upon to determine whether significant pulmonary disease is present. The function of lung biopsy in cases such as this should be to determine the nature of serious injury and disability when such disability has first been demonstrated. Biopsy served no useful purpose whatever in a situation such as this where there is no clinical, physiological or radiological evidence of disabling pulmonary disease.

Very truly yours,



HCH:mjh

H. Corwin Hinshaw, M.D.

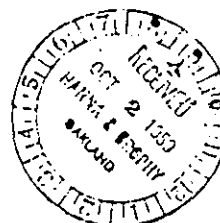
000162

M. CORWIN HINSHAW, M.D.
HORTON C. HINSHAW, JR., M.D.
480 BUTTER STREET
SAN FRANCISCO 8, CALIFORNIA

TELEPHONE
YUEN 2-7158

September 22 1959

FROM H. Corwin Hinshaw, M.D.
TO Hanna & Brophy
1540 San Pablo Avenue
Oakland 12, California
SUBJECT Mr. Robert F. Cuthbertson vs.
Armstrong Cork Co., et al
SPECIAL MEDICAL EXAMINATION AND REPORT



Purpose of the Report

To determine the nature of Mr. Cuthbertson's chest complaints with special reference to the problem of asbestosis and the source or sources from which such condition may have arisen.

Occupational and Clinical History

The patient states that for more than 12 years (since about July 1947) he has worked with materials containing asbestos, fiberglass and other insulating materials. He states that he has been employed by several different contractors and states that a detailed record of his employment is on file, the details of which he cannot recall at this time. He states that he has worked under a wide variety of conditions but that he has frequently been exposed to asbestos dust and dust from other insulating materials in closed spaces where ventilation was defective. He says that he did not wear a mask at any time and had never been instructed to do so until November 1958 when he returned to work after having been told that he had asbestos deposited in his lungs. He has had x-ray examinations of the chest carried out occasionally and a review of the record would indicate that the films were made in October 1953, November 1954, March 1956 and a number of films between February 1958 and August 1958. The patient is not informed as to what these films may have demonstrated and the films are not currently available for review but will be acquired for study in this office, if possible.

The patient's chief complaint is and has been pain in the chest. He cannot recall when this pain first became a source of concern to him but a review of medical records available indicate that he had some chest pain in February 1958 and the patient thinks that he may have sought medical advice for a similar complaint at some indefinite previous time.

His acute illness of February 1958 required about two weeks of hospital care and Doctor L. W. Brown, his personal physician, ordered x-ray examinations and other studies. The x-rays apparently showed some abnormality which led to further investigation and eventually Doctor Brown recommended that he seek advice from a chest surgeon and he was referred to Doctor Gerald Crenshaw of Oakland. Doctor Crenshaw carried out an exploratory operation on August 13, 1958 and removed a

264 000163

Page 2 September 27, 1958
From H. Corwin H. D., M.D.
To Hanna and Brophy
Subject Mr. Robert F. Cuthbertson
 Report of Special Medical Examination

Occupational and Clinical History (CONTINUED)

specimen of lung tissue and has reported to the claimant's attorney that "the report was positive for asbestos."

The patient does not explain his symptoms very well, not remembering when his difficulties commenced or how they have progressed but the following is a summary of his complaints at present.

General Complaints

He complains of fatigue and says that he has difficulty sleeping at night but apparently has not lost any weight or had other systemic complaints.

Respiratory Complaints

His pain is described as follows:

Location - anterior chest from the level of the clavicles on each side to the lower rib margins. The pain is bilateral but more severe on the left side than on the right side. The pain is entirely anterior and does not extend posteriorly.

Character of pain - a tightness and a hurting sensation is described.

Time of day - He says the pain may be noted at any time of day and is present much of the time. The pain is made worse by general fatigue but apparently is not influenced by motion of the shoulder girdle muscles nor is it worsened by deep breathing. The pain is made better by rest and he thinks that a deep breath may give him some degree of transient relief. The only time that he can recall when he was completely or relatively free of pain was during a two weeks vacation at Lake Alminor in the Northern Sierra Mountains. He said that he had no explanation as to why the pain disappeared under these conditions but he was probably more relaxed and spent a good deal of time fishing and he had less trouble sleeping.

He has no cough but does expectorate some greenish material in the morning, the origin of which is unclear to him. He probably has had no asthmatic symptoms, wheezing or other abnormal respiratory sounds. He says that he is more short of breath than formerly and doubts that he could play basketball now as he did approximately two years ago.

Cardiac Symptoms

No palpitation or irregularity of heart action observed. No swelling of the ankles or other symptoms to suggest cardiac decompensation.

Gastrointestinal Complaints

Appetite is normal, no difficulty swallowing, no indigestion, no abdominal pain, no constipation or diarrhea.

Genitourinary Complaints

No difficulty urinating, no obstruction to the flow of urine, no abnormal appearance to the urine or other symptoms suggestive of possible disease in these organs.

Head, Eyes, Ears, Nose, Throat, Sinuses

No complaints except for the sputum production as mentioned above.

Skeletal, Muscular, Central Nervous Systems

No complaints except he does have difficulty sleeping at night and he believes that he is much more nervous than he was a year or two ago.

Personal Habits

He does not smoke, having quit smoking about one year ago and probably never was

✓ 000161

Page 8 September 27, 1959
From H. Corwin Himmelfarb, M.D.
To Hanna & Brophy
Subject Mr. Robert F. Cuthbertson
 Report of Special Medical Examination

Personal Habits (CONTINUED)

a heavy smoker although he may have approached as much as 20 cigarettes daily. He has never consumed alcoholic beverages regularly or to excess. He eats his meals at regular hours and generally leads a well-ordered life.

Personal and Family History

He is married and his wife is in good health, he has three children, a son ten and one-half years of age, a son age five and one-half and a daughter three and one-half years of age, all of whom are in excellent health. His father died of a cancer of the throat at about 48 years of age. His mother is living and in good health, he has two sisters who are living and well and one twin brother (not identical) who is believed to have asbestosis.

PAST MEDICAL History

Tonsils were removed at the age of 19 years and he has had no other operations except for the lung biopsy mentioned in August 1958. He has had no other serious illnesses except those mentioned above. He injured one foot with fracture of some bones while working on the job in 1957. He says that he still has some residual pain in this region.

Present Medications - None.

Physical Examination

General Appearance

The patient is a stocky, husky-looking fellow, who would appear to be in the best of general health. He is heavily tanned and his musculature is well-developed and his general appearance would be consistent with his reported age of 31 years. His general attitude has not been cooperative or he is a poor historian because details of his working history were impossible to secure and his physical complaints were very poorly described and often inconsistently described. He seems to be restless and irritated and it is observed that his fingernails are chewed off very closely. He admits to this nervous habit.

Height 5 feet 8 inches.

Weight 180 pounds, usual weight not known.

Blood

Pressure Normal, 130/80.

Pulse Normal, 68.

Temperature

Normal, 98.0°F.

Eyes Pupils are regular and equal, reflexes to light and accommodation are normal, external ocular movements are normal.

Oral Teeth are in fairly good condition, no evidence of diseased tonsils and no irritation of the pharynx is noted. The tongue appears normal, the ears appear normal.

Cavity Cervical and axillary nodes are not enlarged or diseased.

Lymph

Nodes

Thyroid Normal.

Breasts Normal.

Skin Normal except for tattoos and for the scar of a right lateral thoracotomy incision.

/ 000185

Page 4 September 10, 1958
From H. Corwin Law, M.D.
To Hanna and Brophy
Subject Mr. Robert F. Cuthbertson
 Report of Special Medical Examination

Physical Examination (CONTINUED)

Chest Wall

The shape is normal, respiratory excursion is good and there is no local tenderness.

Lungs Percussion note is normal throughout, breath sounds are normal and equal. There are no rales detected, no wheezes or other abnormal sounds detected with the stethoscope.

Heart Size is indeterminate, rhythm regular, no murmurs or other abnormal sounds were detected. The neck veins were not distended.

Abdomen No unusual tenderness, no enlarged liver, no palpable spleen, no palpable kidneys, no other organs felt and no abnormal masses palpated.

Genitalia Normal.

Extremities All joints appear to be normal and to function normally, no abnormality of vessels, no edema, no clubbing, no unusual callus on the palms of his hands, no tobacco stains observed.

Tests of Pulmonary Function

Chest Expansion Normal, 5 cm.

Vital Capacity 3.2 liters, 3 second vital capacity 3.0 liters.

Maximal Breathing

Capacity 88 liters per minute. I was not convinced that his vital capacity or his maximal breathing capacity were truly maximal efforts but in any event these are within the lower limits of normal. His breathing pattern is normal with no indication of air trapping, no obstruction to outflow of air and there was no evident shortness of breath on the usual activity.

X-ray Examination of the Chest

Stereoscopic and lateral films on September 10, 1958 indicate that the bony structures of the thorax are normal. The heart and mediastinal structures are normal in size, shape and position. Both hemidiaphragms are normally arched and are at a normal level. Both hilar shadows are within normal limits. On the left side the vascular markings are prominent but no more prominent than often seen in a man of this constitution. There is no evidence of any inflammatory disease, no fibrosis or other evidence of disease in the left lung. On the right side the vascular shadows are normal, the upper lung fields reveal no abnormality and in the lower lung field there is a coarse stringy opacity at the level of the fifth rib anteriorly which appears to be the result of his thoracic surgery. There is no indication of inflammatory disease and no shadow which I could identify as representing dust deposition.

Previous films, obtained from Herrick Memorial Hospital in Berkeley, California and bearing the dates of October 10, 1953, November 13, 1954 and March 17, 1956 have been obtained and compared with current films. These films are all similar to current films and they also fail to reveal any convincing evidence of pneumoconiosis, in my opinion. The only difference between the previous films and the current ones is the area of scarring at the base of the right lung, produced by the surgical procedure.

000100

SIDNEY J. SHIPMAN, M.D.
ROBERT W. CLARKE, M.D.
ELIZABETH H. GALBRAITH, M.D.
490 Post Street
San Francisco 2

March 30, 1960

Industrial Accident Commission
455 Golden Gate Avenue, Room 2202
San Francisco, California

C
O
P
Y

From: Sidney J. Shipman, M.D.

Concerning: Robert F. Cuthbertson, No. 333208
2438 Garvin Avenue
Richmond, California

Gentlemen:

The following is my report on Mr. Cuthbertson who reported for examination on March 18, 1960, at your request:

General History: Age 31. Born May 4, 1928 in Albany, California. Married and has 3 children. Home address: 2438 Garvin Avenue, Richmond, California.

The Problem: The diagnosis of asbestosis has been made in this case, based upon history of exposure and a pulmonary biopsy. Does asbestosis really exist in a clinical sense and, if so, what is the degree of disability?

Chief Complaint: The patient says that prior to operation he had pain in the left chest but this was so long ago that he is uncertain as to its exact nature, whether it was sharp or dull or whether it was aggravated by breathing. Since the operation, his pain is substernal and radiates to both sides.

Family History: The father died of cancer of the larynx at age 48; Mother is living and well, as are two sisters. Patient has a twin brother who is said to have asbestosis.

Marital History: Wife living and well, as are three children, ages roughly 11, 6 and 4.

Past History: Operations: Tonsillectomy at age 19, with good results. Biopsy of lung tissue and subtotal lobectomy in August, 1958.
Accidents: Foot injured in 1957 with fair recovery.
Adult diseases: See Present Illness.
Childhood diseases: Usual, with good recovery.
Habits: Has never used alcohol to excess. He smoked in the past up to a package a day but has not smoked for over a year.

See Page 2. SERVICE ON: EK
Smith & Parrish, 501 Financial Center Bldg., Oak.
State Comp. Ins. Fund, Personal Service
Mullan & Filippi, 315 Montgomery St., S.F.
Ind. Indem. Co., S.F. Hanna & Brophy, Oak.

000157

RE: Robert F. Cuthbertson

Page 2.

March 30, 1960

Past History

Habits (cont'd): No nycturia. Appetite fair. Digestion good. Bowels regular. Does not sleep well because of nervousness.

Occupational History: Patient says he has worked with asbestos and insulating materials since 1947 for various contractors, both inside and out. He has never worn a mask prior to November, 1958, when he was told he had asbestosis. Since that time he has worn a mask. Patient is somewhat indefinite about his employment and the composition of the materials used. See "Discussion" for further information.

Present Illness:

Mr. Cuthbertson says that he has had some chest pain, chiefly on the left side, the exact nature of which he is unable to recall, for several years. It may have begun in 1957 or even prior to that time, but it became severe enough in February, 1958 to cause him to consult his physician. The doctor ordered some x-rays and detected something abnormal in the films which he pointed out to the patient and for which he recommended a consultation with Dr. Gerald Crenshaw of Oakland. Dr. Crenshaw did a thoracotomy on August 13, 1958 and removed a specimen of lung tissue and some of the pleura for examination. The patient believes that these specimens showed the presence of asbestos bodies. Following operation, Cuthbertson had a normal convalescence but his pain was not relieved. It was substernal and spread into both sides of the chest. Rather than being made worse by deep breathing it was somewhat improved. He has had colds following operation and raises a small amount of sputum, but this has never been marked. At present he is working as before.

Physical Examination:

A well developed and nourished man appearing perfectly well. He looks somewhat younger than his stated age of 31 years. He is pleasant and cooperative, although he states he doesn't think much of doctors. Temperature 98.6. Pulse 74. Respirations 16. Weight 183 pounds. Height 69 inches.

Eyes:

- Pupils equal and regular, reacting normally to light and in accommodation. The extra ocular movements are normal.

Ears

- The canals are clean. Tympanic membranes are normal.

Nose

- No gross obstructions.

Mouth

- Teeth in fair condition. Tongue clean. Pharynx injected.

Glandular System

- Thyroid palpable but not enlarged. No adenopathy noted.

See Page 3.

000168

RE: Robert F. Guthbertson

Page 3.

March 30, 1960

Vascular System

- Radial pulses equal and synchronous, of fair volume but diminished tension. Vessel walls not thickened. Blood pressure 105/65.

Heart

- PMI not seen or felt. No palpable thrill. The sounds are of fair quality. Rhythm regular. A2 is equal to P2. There are no adventitious sounds heard.

Chest

- Expansion good throughout. There is a well healed thoracotomy scar over the lower right chest extending forward to the anterior axillary line; not tender.

Right lung - note good. Breathing vocal resonance apparently normal. No rales.

Left lung - same as right.

Abdomen

- no masses. No tender areas made out. No palpable viscera.

Genitalia

- Normal adult male.

Extremities

- No clubbing. No cyanosis. No varicosities.

Reflexes

- Knee jerks equal and active. No pathology made out.

Vital Capacity

- 1 second, 2000 cc.
Total, 4000 cc.

Fluoroscopy

- Both leaves of the diaphragm move well, although there is obliteration of the right costophrenic angle. The heart and great vessels are within normal limits. The root shadows are somewhat accentuated. The parenchymal zones seem clear.

X-ray films

- 10/10/53 - Heart and great vessels within normal limits. Root shadows normal. Costophrenic angles clear. Parenchymal zones are clear.

11/13/54 - No change.

3/17/56 - No essential change.

9/10/59 - Taken by Dr. H. Corwin Hinshaw - now reveals linear densities in the right base with some intervening density characteristic of pleural reaction.

11/19/59 - Taken by Dr. Cabot Brown - essentially unchanged.

3/18/60 - Slight pleural thickening and linear densities in the right lower chest, chiefly anterior, comparable to those seen in films of 9/10/59 and 11/19/59.

Laboratory work

- 3/18/60, Urinalysis - Clear, amber. Specific Gravity 1.026. Acid reaction. Albumin & sugar negative. Few hyaline casts. Few squamous epithelial cells. Pus cells, 0-2 per h.d.f. R.B. cells, None seen.

3/18/60, Complete Blood Count - Hemoglobin 88%, 14.8 gm. Erythrocytes 5,010,000. Color index .88. Slight achromin. Leukocytes 9,800. Neutrophils 67%, of which 64% were mature; 3% stab cells. Lymphocytes 28. No monocytes. 3 Eosinophils; 2 basophils.

3/18/60, Kolmer - Negative.

3/18/60, VDRL - Negative.

See Page 4.

000159

RE: Robert F. Cuthbertson

Page 4.

March 30, 1960

Discussion: I have examined the voluminous file in this case, including the report of the hearing before the Industrial Accident Commission of 11/25/59; the report of the Referee, dated 8/13/59; the hospitalization record from the Richmond Hospital Association, Cuthbertson #1053; the employment record from 1947 to 1958, showing employment by several concerns as listed; Dr. Hinshaw's report addressed to Hanna & Brophy, dated 9/22/59; Dr. Garland's report dated 10/12/59; Laboratory analysis of lung tissue dated 12/31/58, signed by W. C. Thielen; the transcript of testimony before Mr. Ankele of 10/22/59; Dr. Brown's report of 11/19/59, addressed to Mr. Schwab; Mr. Ankele's opinion filed 12/15/59; Joseph E. Smith's Petition for Reconsideration dated 1/4/60; Hanna & Brophy's answer to the Petition, filed 1/11/60; John W. Moore's answer as well as the answer of Patrick R. Maloney; together with a large amount of miscellaneous correspondence and material. The results of my personal examination today reveal no evidence of abnormality except a thoracotomy scar on the right side of the chest and the thickened pleura at the base of the right lung. My examination indicates that there is no disability at this time. What makes this case difficult is that Dr. Crenshaw obtained a specimen of lung and the specimen showed the presence of asbestos bodies. Does this mean that the patient has asbestosis? It certainly does not mean that he is sick or disabled and in a clinical sense it does not mean that the disease, asbestosis, exists. The diagnosis of the disease, asbestosis, depends upon:

- (1) A history of exposure to asbestos dust
- (2) The radiological appearance consistent with asbestosis and, usually,
- (3) A symptomology consistent with the diagnosis together with,
- (4) Evidence of impaired pulmonary function in most cases

The amount of exposure necessary to produce the disease is hard to determine and varies somewhat from person to person as we find in silicosis. Moreover, the size of the dangerous particles varies more than in silicosis. In this case 2, 3, and 4 are not consistent with the diagnosis of any type of pneumokoniosis. Thus, essential criteria for making the diagnosis of the disease in this case are lacking, in spite of the finding of asbestos bodies in the lung tissue which Dr. Crenshaw removed. In general, I agree with Dr. Hinshaw's report and with the discussion of Dr. Brown dated November 19.

Sincerely yours,

s/ Sidney J. Shipman, M.D.
Sidney J. Shipman, M.D.

SJS:mn
Encls. cc's (2)
Encls. statements (3)

000170

INDUSTRIAL ACCIDENT COMMISSION

Date FEB 25 1960TO: MEDICAL BUREAU
San FranciscoCase Name: ROBERT F. GUNNERTSON Case No: OAK 1053

Applicant's complaints relate to the following parts of the body:

LUNGS

You are requested to:

- Review the file and give opinion without examination.
 — Examine the applicant in the Medical Bureau.
☒ Refer to INE specializing in _____

INE Fee will be paid by COMMISSION

— Additional X-rays, laboratory tests, and other supplemental procedures may be done if necessary.

6 Copies of report requested.

— Defendants will pay transportation expense.

— Defendants will pay living expense.

☒ ALL AVAILABLE X-rays are attached.

— All X-rays believed necessary are attached.

— Hold _____ days for X-rays from _____

A REPORT IS REQUESTED, GIVING OPINION UPON THE FOLLOWING:

1. ☒ Are the medical findings consistent with the original incident or injury/claimed by applicant?
ASBESTOSIS
2. ☒ If disability exists as result of the injury, is it:
 - a. Temporary total.
 - b. Temporary partial (if so, state extent of ability to work).
 - c. Permanent and stationary for rating purposes.
3. ☒ If permanent and stationary and ready for rating, describe:
 - a. Permanent disability factors resulting from the injury.
 - b. Factors to which you believe the injury was an aggravating or contributing cause.
 - c. Controversial factors, if any, which you believe pre-existed and are unrelated to, and not aggravated by the injury.
4. If P.D. factor or factors are so related between injury and pre-existing condition they cannot be separately stated, please state in percentage what portion is chargeable to the injury.
5. ☒ Is any further treatment reasonably necessary to cure or relieve the effects of the injury? If so, will you please give type of further treatment needed.

(NOTE: Please do not include under 3 or 4, physical conditions in no way related to or aggravated by the injury and not in controversy.)

6. FURTHER QUESTION AND REMARKS: _____

W. T. Dunbar

Referee

EDWARD C. NEELY

000171

INDUSTRIAL ACCIDENT COMMISSION

Date FEB 25 1960TO: MEDICAL BUREAU
San FranciscoCase Name: ROBERT F. CUTHBERTSON Case No: OAK 1053

Applicant's complaints relate to the following parts of the body:

LUNGS

You are requested to:

- ☐ Review the file and give opinion without examination.
☐ Examine the applicant in the Medical Bureau.
☒ Refer to IME specializing in _____

IME Fee will be paid by COMMISSION☐ Additional X-rays, laboratory tests, and other supplemental procedures may be done if necessary.6 Copies of report requested.☐ Defendants will pay transportation expense.☐ Defendants will pay living expense.☒ ALL AVAILABLE X-rays are attached.☐ All X-rays believed necessary are attached.☐ Hold _____ days for X-rays from _____

A REPORT IS REQUESTED, GIVING OPINION UPON THE FOLLOWING:

1. ☒ Are the medical findings consistent with the original incident or injury claimed by applicant?
ASBESTOSIS
2. ☒ If disability exists as result of the injury, is it:
 - a. Temporary total.
 - b. Temporary partial (if so, state extent of ability to work).
 - c. Permanent and stationary for rating purposes.
3. ☒ If permanent and stationary and ready for rating, describe:
 - a. Permanent disability factors resulting from the injury.
 - b. Factors to which you believe the injury was an aggravating or contributing cause.
 - c. Controversial factors, if any, which you believe pre-existed and are unrelated to, and not aggravated by the injury.
4. ☐ If P.D. factor or factors are so related between injury and pre-existing condition they cannot be separately stated, please state in percentage what portion is chargeable to the injury.
5. ☒ Is any further treatment reasonably necessary to cure or relieve the effects of the injury? If so, will you please give type of further treatment needed.

(NOTE: Please do not include under 3 or 4, physical conditions in no way related to or aggravated by the injury and not in controversy.)

6. FURTHER QUESTION AND REMARKS: _____

W. T. Dunbar

Referee 000172

EDWARD C. NEEB

DIVISION OF ADMINISTRATION
MARGARET C. BISHOP, CHIEF

CONCILIATION SERVICE
D. ANN OWENS, SUPERVISOR

DIVISION OF APPRENTICESHIP STANDARDS
CHARLES F. HANUS, CHIEF

DIVISION OF HOUSING
LAWELL NELSON, CHIEF

DIVISION OF INDUSTRIAL ACCIDENTS
D. W. MACDONALD, CHIEFMAN

STATE OF CALIFORNIA

EDMUND G. BROWN
Governor



JOHN F. HENNING
Director

DIVISION OF INDUSTRIAL SAFETY
THOMAS W. SANDERS, CHIEF

DIVISION OF INDUSTRIAL WELFARE
FREDERICK D. ELIOT, CHIEF

DIVISION OF LABOR LAW ENFORCEMENT
SIGMUND SCHWITZ, CHIEF

DIVISION OF LABOR STATISTICS AND RESEARCH
MAURICE J. GREENBERG, CHIEF

STATE COMPENSATION INSURANCE FUND
EARL E. HOWARD, GENERAL MANAGER

DEPARTMENT OF INDUSTRIAL RELATIONS
HEADQUARTERS, 705 MISSION STREET, SAN FRANCISCO 3

ADDRESS REPLY TO:
INDUSTRIAL ACCIDENT COMMISSION
705 MISSION STREET
SAN FRANCISCO 3

March 8, 1960

Dr. Sidney Shipman
490 Post Street
San Francisco, California

RE: R.F. Cuthbertson
2438 Garvin Avenue
Richmond, California

APPT: March 18, 1960
Friday- 2:45 p.m.

Dear Doctor:

You have been legally appointed as an Independent Medical Examiner to examine the applicant (or records) named above, in accordance with the Referee's Memo of Instructions attached. If you have had professional contact with the case, do not make the examination. The examiner should not discuss the case with anyone not a member of the Commission's staff.

Please express as definite an opinion as possible. Such terms as "possibly" or "may be" are of little value in Commission procedure. In cases requiring orthopedic measurements, the Commission's approved method of measurement should be used.

Please render both report and bill in triplicate and address to this office. Do not mail Commission folder as our messenger will call when you telephone us that it is ready. "EXbrook 2-83021 Ext 277". In examinations made outside San Francisco and Los Angeles the folder should be returned by registered mail.

Return the report NOT LATER THAN ONE WEEK from date of examination as the settlement of the case will probably depend on your report. The Commission's approved fee for review of the medical file, examination and report is \$35.00. A higher fee will usually be approved in the event of unusual work or difficulty.

CAUTION.

Do not hospitalize the patient or undertake extensive diagnostic procedures such as myelography or cystoscopy unless these have been authorized. If in doubt, call this office. Ordinary x-ray and laboratory examination is permissible.

Treatment will never be authorized.

md
file
films

Very truly yours,

J. L. Barritt, Jr.
J. L. BARRITT, JR.
Medical Director

JLB:jet
MS-17 amend.

000150

333200
WESTERN ASBESTOS CO.

ESTABLISHED 1908

SAN FRANCISCO • OAKLAND • STOCKTON • NO. SACRAMENTO • FRESNO • SAN JOSE • SANTA ROSE

General Office: 675 Townsend Street • Klondike 2-3888
San Francisco 3, California

July 28, 1959

gyB

Legal

State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

Attention: Mr. Culien

SUBJECT: Robert F. Cuthbertson

Gentlemen:

In compliance with your request, we wish to advise that Mr. Cuthbertson was employed by us during the following periods:

From 1/4/49 - 5/4/49	Hourly rate - \$2.16
" 3/13/50 - 8/3/50	" " \$2.35

His work consisted of applying insulation to pipes, boilers, etc.

If we can be of any further assistance to you, please do not hesitate to call on us.

Very truly yours,

WESTERN ASBESTOS CO.

H. E. Simons
H. E. Simons

HES:ar

RECEIVED

AUG 5 1959

S. F. LEGAL

000171

EMPLOYMENT RECORD

1947 July through December 1947, Plant Asbestos Co
1948 January, Plant Asbestos Co.
1948 May through December, 1948, J. T. Thorpe
1949, 1st of January, January 12, 1949, J. T. Thorpe
1949, January 14 through May 4, 1949, Western Asbestos Co.
1949, May 11 through Aug. 10, 1949, J. T. Thorpe
1949, Aug. 11 through Dec. 1949, Plant Asbestos Co
1950, Jan. 1 through Feb. 16, 1950, Plant Asbestos Co
1950, March 13 through Aug 3, 1950, Western Asbestos Co
1950, Aug. 20 to Sept. 3, 1950, Plant Asbestos Co
1950, Sept. 13 through December, 1950, Armstrong Cork
1951, January through December, 1951, Armstrong Cork
1952, January through December, 1952, Armstrong Cork
1953, January through December, Armstrong Cork
1954, January through July 17, 1954, Armstrong Cork
1954, July 18 through December, 1954, Plant Asbestos
1955, January through December, Plant Asbestos
1956, January through December, Plant Asbestos
1957, January to May, Plant Asbestos
1957, May through August, 1957, leg injury
1957, Sept. through December, Plant Asbestos
1958, Jan. to Feb. 13, 1958, Plant Asbestos
1958, March 21 through April 11, Plant Asbestos
1958, Nov. - through December, 1958, Plant Asbestos

Re: Robert P. Cuthbertson vs. Plant
Asbestos, et al.
I.A.C. No. OAK 1053

0004

RECEIVED
JUL 13 1977

APPLICATION

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
JUL 28 1960
me
Oakland Office

CASE NO.

60 OAK 3513

2436 Garylin ave

Richmond, California

Security No.

PLANT ASBESTOS CO.

1351 Ocean Ave.

Emeryville, California

INDUSTRIAL INDEMNITY CO

268 Grand Ave.

Oakland, California

1. Robert F. Guthbertson, May 4, 1928 alleges that while employed on 5/23 1957
NAME OF EMPLOYEE DATE OF BIRTH DATE OF INJURY
 as insulator at Oakland, California, by
OCCUPATION AT TIME OF INJURY CITY, TOWN OR PLACE WHERE INJURY OCCURRED
Plant Asbestos, he sustained injury arising out of and in the course of the employment, as follows:
NAME OF EMPLOYEE
fell resulting in
EXPLAIN HOW INJURY WAS RECEIVED
left ankle injury

2. Industrial Indemnity Co. was the employer's insurance carrier on date of injury.

3. _____

4. Was compensation paid? Yes

1. Earnings at time of injury \$ Max. @ _____ The basis of pay was _____
MONTHS OF WORK STATE PAY PERIOD OR LOWEST RATE, UNDER A PAY AND CURE PLAN

6. Was medical treatment needed? _____ Who furnished treatment? _____

SIXE NAMES OF DOCTORS WHO TREATED THE SUBJECT AND STATE WHO PAID THEIR BILLS

7. This application is filed to determine liability for

a. Temporary disability _____ b. Permanent disability Yes c. Medical treatment Yes d. Medical costs _____

e. Litigation expense f.

59 OAK 1053

WHEREFORE, it is requested that a time and place be fixed for hearing and that an award be made granting such relief as may be warranted under the Workmen's Compensation Laws of California.

Dated at 7/26/60, California, Oakland

Hearing requested at Oakland *P. H. C. H. L.*

Number of witnesses 1 APPLICANT'S SIGNATURE

Estimated time of trial 3 hour () 1 ' Smith, Parrish, Paduck & Clancy

Served as: ☐ FOR OFFICE USE ONLY

EE' EEA' 501 Financial Center Bldg.

ER ✓ ERA
ENC ✓ ENC

INS: _____ INSA: _____ By SC Date 8-9-60

000000

NOTE—CLASS AND NAME OF ANY OTHER VESSEL IN CONTACT. CLASS SHALL BE THE NAME OF THE VESSEL, AND THE NAME OF THE VESSEL SHALL BE THE NAME OF THE VESSEL.

NOTE—UNDER THE PROVISIONS OF THE WHEELER'S CONVENTION, IMMIGRANT AND SAFETY LAWS, THE APPLICANT MUST FIRST STATE THE ADDRESS OF THE PLACE OF ORIGIN, STATE, AND AD ADDRESS OF THE PRESENTED FOR EXAMINATION TO ADEPT THIS CAN BE ADEPTED TO COMPLETE THE CASE WITHOUT A CONTINUOUSLY.

[illegible]

U 24 (REV. 5-80)

Figure 1. The effect of the concentration of the *Agaricus bisporus* spores on the growth of *Agaricus bisporus* and *Agaricus bisporus* spores on the growth of *Agaricus bisporus*.

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

ROBERT F. CUTHBERTSON,

Applicant

vs.

PLANT ASBESTOS COMPANY and
INDUSTRIAL INDEMNITY COMPANY,

Defendants

No. 60 OAK 3913

MINUTES OF HEARING
(ORIGINAL)
PRE TRIAL
STIPULATED DECISION

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
SEP 28 1960

Per

MS

Place and Time: Oakland September 23, 1960 10:30 a.m.

Referee: ANKELE
Reporter: SMITH

Appearances: Applicant: Present
SMITH, PARRISH, PADUCK & CLANCY
By JOSEPH E. SMITH, Esq.

Defendants: PATRICK R. MALONEY, Esq.

APPLICANT'S 1 Bill, Dr. Eisenberg, \$40.00 and report, 9-7-60
DEPENDANTS' 1 Medical file

FINDINGS OF FACT:

1. Robert F. Cuthbertson, born May 4, 1928, while employed as an insulator on May 23, 1957, at Oakland, California, by Plant Asbestos Co., sustained an injury arising out of and occurring in the course of his employment, consisting of an injury to his left ankle.
2. At said time said employer's compensation insurance carrier was Industrial Indemnity Company..
3. All medical treatment to date necessary to cure and relieve the applicant from the effects of his injury has been furnished by defendant carrier.
4. At said time said employee's earnings were maximum.
5. Temporary disability indemnity has been paid in the sum of \$405.71 through August 4, 1957, constituting all temporary disability indemnity due.
6. Said injury caused a permanent disability of 8%.
7. Applicant incurred costs of the reasonable value of \$40.00 for the examination and report of Harold J. Eisenberg, M.D.
8. Applicant's attorney rendered services of the reasonable value of \$100.00.

1 p
9-23-60

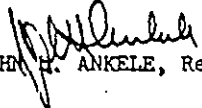
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CUTHBERTSON - 2

A W A R D

AWARD is hereby made in favor of Robert F. Cuthbertson against Industrial Indemnity Company in the sum of \$1120.00, payable forthwith, less an attorney fee of \$100.00, payable to Smith, Parrish, Paduck & Clancy, together with interest on delayed payments as provided by law.

FURTHER AWARD is hereby made in favor of Robert F. Cuthbertson against Industrial Indemnity Company for litigation costs in the sum of \$40.00, payable to Harold J. Eisenberg, M.D.


JOHN E. ANKELE, Referee

000001

ORTHOPEDIC

JOSEPH OLEEN, M. D.
HAROLD J. EISENBERG, M. D.
8022 - E. 14TH STREET
OAKLAND 1, CALIFORNIA
KELLOG 4-4822

Industrial Accident Commission
RECEIVED
SEP 12 1960
Oakland Office

Sept 7, 1960

Joseph E. Smith
Attorney at Law
405 14th St
Oakland, California

Col #1
am

8-17-60 Exam and Report 40.00
on Robert F. Cuthbertson

000005

ORTHOPEDIC

JOSEPH OLSEN, M. D.
HAROLD J. EISENBERG, M. D.
8022 - E. 14TH STREET
OAKLAND 1, CALIFORNIA
KELSO 4-4808

September 7, 1960

Joseph E. Smith,
Attorney at Law
405 14th Street
Oakland, 12, California

Re: Robert F. Cuthbertson

Dear Sir:

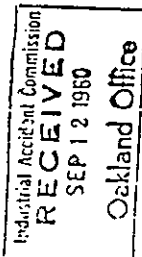
On August 17, 1960, Robert Cuthbertson was examined in this office for injuries received on May 23, 1957, while patient was employed by Plant Asbestos Co. He stated that he was working on a ladder about 10 feet from the ground when this ladder slipped out from under him and he fell from one roof to another, landing on his left foot and injuring his left lower extremity. He did not sustain a head injury of any kind and had no difficulty with his back.

He was seen at the office of Dr. Rudnick, where x-rays of the left ankle were made and it was not felt that there was a fracture. Dr. Rudnick's findings were that of a questionable chip off the lateral cuboid area.

A diagnosis of severe sprain of the left ankle was made.

The patient was transferred to the care of his family physician, Dr. A.R. Thompson of Berkeley and treatment consisted of elevation, rest and compresses. He was treated first with an elastic bandage and then later with a cast. He was also given physiotherapy at Herrick Hospital and also another place in Richmond, over a period of about two months.

In August, because he was not doing well, he was sent to Dr. Melvin Hurley in Richmond, who is an Orthopedic Surgeon and he was examined by him. Dr. Hurley made a diagnosis of Sudeck's atrophy of the left foot, secondary to his sprain injury. He was treated with priscoline, a vaso



000006

Joseph E. Smith
Robert Cuthbertson

September 7, 1960
Page 2

dilator, local injection of his ankle and the use of an arch support. He returned to work about three months from the time of his injury. He stated that he was able to do most of the duties of his usual work. He stated that he occasionally sees Dr. Hurley, but that no active treatment had been given for sometime and he has continued to use the arch support.

His complaints at the time of examination were those of continued pain in the ankle, particularly towards the latter part of the day's work when he had been on ladders or walking extensively. He also noted that there was some stiffness in the morning when he would awaken and it took a little while for him to limber up his foot. If he was sitting for any period of time and then started to get up, he found that his ankle was stiff and took several steps before it began to limber up. He no longer required analgesics.

His past medical history was negative. His past surgical history included the resection of surgery to the right lung for asbestosis. He would still get some chest pain associated with this disease. He had never had any serious injuries and had never had any difficulty with his ankle before. Aside from his lobectomy, the only surgery he had had has been a tonsillectomy.

Physical examination revealed a husky white male who was not in distress. The pupils were round and equal. The nose was clear. The mouth and pharynx were not infected. The heart rate and rhythm were within normal limits. The lungs were clear to auscultation and percussion. There was an old thorocotomy scar present. There was no tenderness in the abdomen and no evidence of masses or spasm in the abdomen.

Examination of the lower extremities showed nothing abnormal on visual inspection.

Circumferential measurements were:

Left calf 14-3/4
Right " 15-1/2 3/4"
(measured 5-1/2" below the knee joint)

The thighs measured 7-1/2" above the knee joints were equal, bilaterally. On palpation of the left ankle there was mild tenderness in the space between the 1st and 2nd

000007

Joseph E. Smith
Robert Cuthbertson

September 7, 1960
Page 3

metatarsals at about the mid-shaft level and there was similar mild tenderness all along the posterior tibial tendons from behind the medial malleolus upward for an interval of about 3 inches. NP

Joint measurements were equal, bilaterally, as far as any measurable motion was concerned. There was a very slight restriction of plantar flexion of the left ankle that was apparent visually, but could not be measured.

There was on forced dorsi-flexion, complaint of pain of a mild degree extending up the tibialis posterior tendons from the tip of the medial malleolus.

The skin was of good color without evidence of any residual circulatory disturbance. There was slightly increased pigmentation of the skin over the region behind the medial malleolus on the left as compared to the right.

The patient stated that while he felt that he could carry out his usual job, he felt insecure when he was on scaffolds or high places, because he did not feel that he could quite trust his left ankle 100%. Also, if he had to work on ladders for several consecutive days, he had too much pain to continue, but he had been fortunate insofar as he works with his brother who will rotate some of this work with him in order to help him carry out his work.

COMMENT: This patient sustained a severe sprain type of injury in the accident described. Apparently there was a question also at the time of the accident as to whether or not there may have been an emulsion from the cuboid bone. No further reference to such a fracture was made in the medical records which I have reviewed. At any rate, the patient had considerable post injury difficulty because of the onset of Sudex neurovascular dystrophy involving the injured foot and received satisfactory treatment for this condition.

At the present time he has residual disability consisting of atrophy of the left lower extremity (see circumferential measurements); increased sensitivity of

000008

Joseph E. Smith
Robert Cuthbertson

September 7, 1960
Page 4.

the soft tissue in the foot and ankle regions which factors are sufficient to justify his subjective complaints of insecurity on scaffold or high places; occasional stiffness of the foot and ankle in the morning and pain toward the end of the days work, when such work involves extensive use of his foot and ankle. These are the factors of his present disability for which he can now be rated.

Sincerely yours,

H. J. Eisenberg X-12
Harold J. Eisenberg, M.D.

HJE:RH



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MELVIN T. HURLEY, M.D.
180 BROADWAY
RICHMOND 2, CALIFORNIA
SEASON 2-0318
PRACTICE LIMITED TO ORTHOPAEDIC SURGERY

September 16, 1960

Industrial Indemnity Company
268 Grand Avenue
Oakland, California

Gentlemen:

RE: Claim No. 57-51-2039
Robert Cuthbertson vs.
Plant Asbestos Company
Date of Loss: May 23, 1957

Attention: Donald J. Maloney, Claims Supervisor

Following your letter of authorization of August 19, 1960, Mr. Cuthbertson reported to my office as directed on the 8th of September, 1960. At that time an interval history was obtained from the patient and a careful physical examination in relation to the complaints in reference to the left ankle was carried out. He was then referred to the X-ray Department of the Richmond Hospital where films of the left ankle were obtained. From the information obtained from these sources, my opinion herewith is offered.

Mr. Cuthbertson states that he is still working for the Plant Asbestos Company as an insulator. He had been working out of the San Francisco Office on various plant installations in the Bay Area. Most recently, he has been in Antioch. He states that in reference to his left foot, "It's still there. It doesn't swell any more, but occasionally it pains over this area," and he indicates the medial malleolar region on the left. "It feels stiff all of the time," "Especially after working on a ladder." The patient states that a great deal of his work is done on a ladder and he feels that by the end of a normal work day his ankle is more stiff than usual. However, he states that it does not swell and it is only on a very rare occasion that he has any feelings of pain or discomfort in the ankle. The patient has not had intercurrent illnesses since my last report to you in May, 1959.

The examination at this time reveals a well developed and nourished white American male who did not appear to be in any discomfort. The general physical examination is essentially negative except for the findings in relation to the thorax which has been covered in prior reports. The findings in relation to the lower extremities are as follows:

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Industrial Indemnity Company

-2-

September 16, 1960

RE: Claim No. 57-51-2039
Robert Cuthbertson vs.
Plant Asbestos Company
Date of Loss: May 23, 1957

The patient is noted to walk without detectable limp or list and on inspection of the left ankle, no visible swelling or asymmetry is noted. The patient demonstrates ability to balance on the ball of each foot, to squat to his heels and to arise without difficulty or without restricted motions in the left ankle. In the recumbent position the measurements of active motions reveal that there is 5 degrees of dorsiflexion present bilaterally. There is 70 degrees bilaterally of plantar flexion, 45 degrees bilaterally of inversion and 20 degrees bilaterally of eversion. No local tenderness and no restrictions of motion are found. The knees are symmetrical at 14 1/2 inches. The left calf reveals 1/4 inch discrepancy at 14 1/2 inches over 14 3/4 inches in circumference. The ankles are symmetrical at 8 1/2 inches. The mid-tarsal region is symmetrical at 9 1/2 inches. The reflexes at the knee and ankle are brisk and active bilaterally. The dorsalis pedal and posterior tibial pulses are present and of good quality. There is no sensory deficit to pinprick examination. The skin of the foot is warm and dry. There are no abnormal weight-bearing marks on any of the digits or plantar aspect of the foot. NR

The patient was referred to the X-ray Department of the Richmond Hospital for films of the left ankle. These have been reviewed by me and I am in agreement with Dr. G. R. Hencky, Radiologist, when he states:

"Left Ankle: There are at least four small bone densities adjacent to the tip of the medial malleolus of the ankle and also adjacent to the medial aspect of the talus. The largest of these measures 5 mm. in diameter, and the smallest is punctate. These shadows are apparently more numerous and somewhat better defined than the small bony bodies present on a prior study of April 1959. I feel that they represent evidence of old chip injuries secondary to an avulsion fractures. There are certainly no major fractures apparent about the ankle. The mortise is symmetrical and is not widened. There are no arthritic changes demonstrated."

(Signed) G. R. Hencky, M.D.

Discussion: It is apparent from the clinical examination that there is no restricted motion, local tenderness or mal-function of the left ankle. However, the patient has generalized subjective complaints in reference to the ankle after use. This is understandable I think particularly when one reviews the x-rays and notes that in the past year there has been an increase in the calcific densities within the ligamentous structures of the medial malleolar region. As such, I feel there is evidence of increased

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Industrial Indemnity Company

-3-

September 16, 1960

RE: Claim No. 57-51-2039
Robert Cuthbertson vs.
Plant Astos Company
Date of Loss May 23, 1957

fibrosis in the medial malleolar region despite the fact that I cannot, by palpation or clinical means identify such a condition. However, the x-rays have been reviewed by me and I am in agreement with Dr. Hencky that there is evidence of increased activity of calcific nature. Accordingly, one must consider the presence of excessive fibrosis in the ligamentous areas as being evidence of residual ligamentous damage. Certainly, the ankle is stable, but with use such as the patient states he does on a ladder it is conceivable that the ankle may ache by the end of a work shift. Accordingly, I would feel that the patient does have minimal residual permanent disability. I would classify his subjective complaints as being minimal in that they constitute an annoyance but do not cause any particular handicap in the performance of his work on a ladder. Objectively, there is 1/4 inch discrepancy in the circumference of the calf muscle which may be in keeping with the x-ray evidence of the lateral malleolar region. Aside from this, no other factors of ratable disability are found. I would not consider the patient to be in need of active medical treatment now or in the foreseeable future. His condition, I feel, is stationary and ratable and because of this person's particular personality I feel that rating this case on the basis of the factors discussed in the body of this report would be in order at this time and to the advantage of all parties concerned.

Thank you for the privilege of seeing Mr. Cuthbertson again in consultation. Should you have questions regarding my findings or opinion, I would be happy to discuss them with you.

Sincerely yours,

Melvin T. Hurley
Melvin T. Hurley, M.D.

MTH:ACP



000012

JUN 4 1959

MELVIN T. HURLEY, M.D.
180 BROADWAY
RICHMOND 2, CALIFORNIA
SEASON 6-0318
PRACTICE LIMITED TO ORTHOPAEDIC SURGERY

May 30, 1959

Industrial Indemnity Company
268 Grand Avenue
Oakland, California

Attention: J. W. Wilson

Gentlemen:

RE: Claim No. 57-51-2039
Robert Cuthbertson

On March 16, 1959, I received an authorization from you for re-examination and report on the above captioned patient. Mr. Cuthbertson came to my office on the 9th of April, 1959, and was examined and then pursued normal usage of the foot and returned for examination most recently on the 26th of May, 1959.

On the basis of the findings of these two examinations, the history obtained from the patient, and a review of x-rays of the left foot and ankle taken at my direction on the 9th of April, 1959, the following opinion is offered.

Mr. Cuthbertson stated that he continued to work at the Plant Asbestos Company as an insulator. This plant is located in Emeryville. Although the patient is employed by the company at that address, he states that he is frequently "on the road" working at various installations; and, as such, never is at one place more than a day or two. He states that he is obliged to do considerable climbing on a ladder, and as a result, "It still bothers me a hell of a lot." "Three-quarters of my work is on a ladder, and it bothers me in the morning when I get up -- it feels stiff." "It's stiff here," and he indicates the medial malleolar region. "I can't walk without the arch support that you gave me."

Since my reports to you, this patient has had rather extensive, drastic surgery and was off work for an additional three months. He stated

000013

JUN 4 1959

Industrial Indemnity Company

-2-

May 30, 1959

RE: Claim No. 57-51-2039
Robert Cuthbertson

that he returned to work this time in November, 1958, and has been working steadily since that time. There are no other intercurrent illnesses or injuries acknowledged by the patient.

The examination at this time reveals a well developed and nourished white American male, 31 years of age, who walks without detectable limp or list. The general physical examination is entirely negative except for findings in relation to the left foot. On examination there is noted to be no alteration in the normal heel to toe rhythm of ambulation. There is no visible swelling. There is no alteration in the dorsal venous pattern. The range of motion found on the 9th of April revealed that the patient had dorsiflexion to a right angle. He plantar flexed to 160 degrees, giving an active range of 70 degrees of plantar flexion. Inversion was restricted 5 degrees on the left, at that time, being 30 over 35 degrees; but eversion was equal bilaterally at 20 over 20 degrees. Circumferential measurements at the knee level revealed that the left knee was 1/2 inch smaller being 14 3/4 over 15 1/4 inches. In the calf region, 1/4 inch atrophy was found being 14 3/4 over 15. At the ankle, there was no discrepancy, circumferential measurements being 8 1/2 inches bilaterally. In the mid-tarsal region, no asymmetry was found, measurements being 9 1/2 inches. The reflexes at the knee and ankle were brisk and active, and the pulses at the dorsal level and the posterior tibial level were brisk and active.

At that time, the patient was advised to continue using the foot actively, since it was felt that with his prolonged hospitalization for his thoracic surgery and just a few months of active usage it was expected that his foot would flare up somewhat.

Accordingly, he returned after using the foot for a period of six weeks and was re-examined by me on the 26th of May, 1959. At this time it is found that there has been considerable improvement in the function of his foot. However, the patient still has subjective symptoms and does not admit to relief of his disability. On examination at this time the active range of motion in dorsiflexion was found to be improved so that now dorsiflexion is permitted bilaterally to 5 degrees beyond the right angle. Plantar flexion still is equal

000017

JUN 4 1959

Industrial Indemnity Company

-3-

May 30, 1959

RE: Claim No. 57-51-2039
Robert Cuthbertson

bilaterally at 70 degrees of active motion to 160 degrees. Inversion is improved so that it is now equal bilaterally at 45 degrees. Eversion is equal bilaterally to 25 degrees. The knees are symmetrical at 14 1/2 inches bilaterally, and the calves reveal only 1/4 inch atrophy on the left at 14 3/4 over 15 inches. The ankles remain equal at 8 1/2 inches, and the mid-foot is equal at 9 1/2 inches. Again there is no alteration in the sensory distribution or the peripheral pulses or motor strength of the foot.

The x-rays taken on the 9th of April reveal that there is normal mineralization of the foot at this time. There are small separate bony fragments seen at the tip and inner aspect of the medial malleolar region presumably from "old injury representing minor chip fractures which have not united. There is no deformity through the foot or ankle to indicate other bony injury. I see no arthritic change. The soft tissues are unremarkable.

When these films were compared with the films made in December, 1957, it is noted that at this time the small bony fragments seen at the tip of the medial malleolus are now quite visualized; whereas in December there was only some roughening noted at the inferior margin of the medial malleolus. There was no other evidence of abnormality found at that time.

Discussion:

It is apparent at the present time that Mr. Cuthbertson has some residual inconvenience in his left ankle as a result of the injury sustained on the 23rd of May, 1957. However, it is felt that this discomfort is only "slight," from an objective standpoint, since his function is excellent and there is no tenderness in the foot to palpation. The patient has subjective complaints, and although he states it bothers him while working on a ladder, it does not prevent him from doing this. Again, I feel that Mr. Cuthbertson has improved since he has been using his foot during the period from April to May while under observation and I would anticipate that further strength and improvement in the foot would continue. It is quite possible that the 1/4 inch atrophy which is now the only objective finding of disability may disappear with continued use in the next three months. I would anticipate, however, that subjective complaints would continue since this patient is quite concerned

000015

JUN 4 1959

Industrial Indemnity Company

-4-

May 30, 1959

RE: Claim No. 57-51-2039
Robert Cuthbertson

and unusually apprehensive over his physical well being.

I trust this report will bring your records up to date. Meanwhile active use of the foot is indicated and I see no need for consideration of active medical treatment at this time. I would advise against a disability rating at this time for the reasons outlined in the body of this report.

Sincerely yours,

Melvin T. Hurley
Melvin T. Hurley, M.D.

TMH:ACP

000018

MELVIN T. HURLEY, M.D.
180 BROADWAY
RICHMOND 2, CALIFORNIA
RECEIVED 8-10-58
PRACTICE LIMITED TO ORTHOPAEDIC SURGERY

October 25, 1958

Industrial Indemnity Company
268 Grand Avenue
Oakland, California

Attention: K. Lucille Mackey

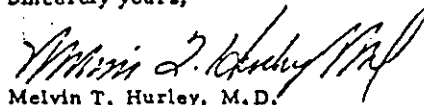
Gentlemen:

RE: Robert Cuthbertson
Claim No. 57-51-02039

You will recall that on the 12th of June, I forwarded a letter in which I stated that Mr. Cuthbertson had not been seen by me. Please be advised that Mr. Cuthbertson appeared at my office on the 16th of October, 1958, stating that he was still concerned over his foot. He stated that since last seen by me he had been having considerable difficulty with his lungs and had been confined to the Richmond Hospital where Dr. G. Crenshaw had resected a lung. He states that he had complications from working as an asbestos worker and had developed a lesion in his lung. He states that he has not returned to work as yet, but is still concerned with the stiffness in his foot. He states, "It feels like it gets overly tired." "I get plenty of exercise because I walk a lot."

The examination at this time again reveals no objective evidence of residual difficulty in the foot. The patient may have some symptoms of a feeling of tightness, but the motions, certainly, by clinical examination are intact. Again, I feel that Mr. Cuthbertson is considerably concerned over his physical well-being and that any minor deviations from the normal are misinterpreted as major catastrophes. He has been relatively inactive, due to his recent thoracic surgery, and it is understandable that his foot may not be as strong as it was originally. He may feel that he has done considerable activity in walking, but I am sure his activities would not approach that which are required in normal work. I feel that no active medical treatment is indicated for the subjective complaints of the right foot at this time.

Sincerely yours,


Melvin T. Hurley, M.D.

MTHPAC

000017

MELVIN T. HURLEY, M.D.
180 BROADWAY
RICHMOND 8, CALIFORNIA
BRANCH 2-0318
PRACTICE LIMITED TO ORTHOPAEDIC SURGERY

June 12, 1958

Industrial Indemnity Company
268 Grand Avenue
Oakland, California

Attention: K. Lucille Mackey
Claims Adjuster

My Dear Miss Mackey:

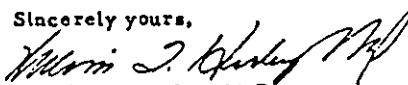
RE: Robert F. Cuthbertson
Claim No. 57-51-02039

Thank you for your letter of May 26, 1958, in which you requested information regarding Mr. Cuthbertson. Please be advised that Mr. Cuthbertson has not been examined by me since my last report on the 6th of February, 1958. Through the "professional grapevine," so to speak, Mr. Cuthbertson was confined to the Richmond Hospital in February, 1958, actually February 24th at which time he alleged pneumonia. Subsequently, on the 22nd of May, 1958, the patient had a rectal fissure and talked to me about it. At that time he was in quite an emotional turmoil and was "going to jump off the Bay Bridge" because of his discomfort. His symptoms were purely neurotic; there were no symptoms or suggestions made in reference to his foot and the patient was not encouraged to elaborate upon his foot.

He is, at the present time, under the care of Dr. L. E. Brown of Richmond for his rectal fissure.

I trust this will bring your records up to date.

Sincerely yours,


Melvin T. Hurley, M.D.

MTH:ACP

000013

MELVIN T. HURLEY, M. D.
150 BROADWAY
RICHMOND 2, CALIFORNIA
BRIDGE 2-0318
PRACTICE LIMITED TO ORTHOPAEDIC SURGERY

February 6, 1958

Industrial Indemnity Company
268 Grand Avenue
Oakland, California

Gentlemen:

RE: Claim No. 57-51-02039
Robert F. Cuthbertson

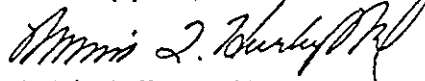
Mr. Cuthbertson was in to see me. He has been considerably worried over the recent feeling of tightness in his ankle with the inclement weather. He now is afraid that the ankle will never be all right and that he will have difficulty in the future earning a living because of the disability in his ankle. I have again spent considerable time with the patient, reassuring him that there is not that degree of permanent disability in his ankle that would require any consideration of loss of earning power or inability to use the ankle in the future. I would expect symptoms of tightness at this time with the inclement weather that we have had.

As you know, this patient has had medication (Priscoline) in the past and has had excellent results with it. This medication was stopped in November, and it is possible that with the recent inclement weather his symptoms have become increased. Accordingly, this evening I have again given him a 10 day supply of Priscoline and have asked him to try this for that period of time and see me.

Again, we are not overlooking any serious disability in this foot. He has had symptoms of a reflex dystrophy and the most recent x-rays on the 14th of December show that there is no fracture and the bone densities have again returned to normal; whereas when seen in June there was considerable osteoporosis of disuse.

I will keep you advised of Mr. Cuthbertson's progress when seen in two weeks. Meanwhile, he is physically able to continue with his usual occupation.

Sincerely yours,



Melvin T. Hurley, M. D.

MTH:ACP

000013

INDUSTRIAL INDEMNITY COMPANY

DOCTOR'S SUPPLEMENTAL REPORT

Melvin T. Hurley, M. D.
160 Broadway
Richmond 2, California
INDUSTRIAL INDEMNITY COMPANY
268 Grand Avenue
Oakland, California

December 30, 1957

Claim No. 57-51-02039

1. Employer Plant Asbestos Co., 1300 64th St., Emeryville, California

2. Injured Cuthbertson, Robert

3. Nature of Injury? Left foot. 5/23/57

4. Present condition (compare with last report) Patient is ambulatory without evidence of swelling or reflex dystrophy. He went dancing New Year's Eve and complains now of some tenderness over the fifth metatarsophalangeal joint of the left foot. Also, he states that the foot gets a little stiff on cold mornings.

NB: Considerable reassurance is needed for this patient, and he will be seen again in one month's time. No active treatment is indicated and no loss of time is anticipated.

5. Treatment: Type? none Further Length? Times per week
If physical therapy is being given, indicate type and times per week.

6. If in hospital—How much longer? Private Room? Ward? Private Nurse?

7. Date of last examination 1/4/58

8. Duration of further disability patient does not have disability at the present time.

9. Date able to return to work has been at work

10. Date actually returned to work

11. Is full recovery expected? yes. X-rays taken on the 14th of December, 1957, reveal that the tarsal bones now are of normal density as compared with films of August, 1957 when de-ossification of re-flex dystrophy was noted.

Type or Print Name of Doctor Melvin T. Hurley, M. D.

Personal Signature of Doctor Melvin T. Hurley
Address 160 Broadway, Richmond, California

Instructions:

- (1) Submit weekly during acute stage of a serious case; monthly thereafter.
- (2) Complete in triplicate.

MELVIN T. HURLEY, M.D.
160 BROADWAY
RICHMOND 2, CALIFORNIA
BEACH 2-0318
PRACTICE LIMITED TO ORTHOPAEDIC SURGERY

September 28, 1957

Industrial Indemnity Company
268 Grand Avenue
Oakland, California

Attention: Lucille Mackey

My Dear Miss Mackey:

RE: Claim No. 57-51-02039
Robert Cuthbertson

Following my report of August 24, 1957, Mr. Cuthbertson has been by me on several occasions, most recently today. He has been started on Priscolline for the circulatory problem in his foot and has been provided with a Trimfoot arch support.

With this, he has made very good progress, and at the present time states that his foot is not nearly as troublesome as it was previously. In the next few weeks, we will gradually decrease his dosage of Priscolline so that we can have him completely off the drug in two weeks. At the end of that time we will again evaluate his condition and will correspond with you regarding his progress.

Meanwhile, he remains physically able to pursue his usual occupation.

Sincerely yours,

Melvin T. Hurley
Melvin T. Hurley, M.D.

MTH:ACP

000021

MELVIN T. HURLEY, M.D.
180 BROADWAY
RICHMOND 8, CALIFORNIA
BRANCH 2-0318
PRACTICE LIMITED TO ORTHOPAEDIC SURGERY

August 24, 1957

Industrial Indemnity Company
268 Grand Avenue
Oakland, California

Gentlemen:

RE: Claim No. 57-51-02039
Robert Cuthbertson

ATTENTION: LUCILLE MACKEY,
Claims Adjuster

On the 19th of August, 1957, Mr. Cuthbertson was seen and examined by me at your request. From the patient's history, my findings on physical examination, and a review of x-rays taken at my direction at the Richmond Hospital plus a review of the medical file furnished by your office, the following opinion is offered.

Mr. Cuthbertson states that he is employed as an insulator by the Plant Asbestos Company of Emeryville, California. On the 23rd of May, 1957, the patient states, he fell a distance of some 10 feet when a ladder gave way, causing him to land on his left ankle in an oblique manner. As a result, he severely twisted the left foot. It became markedly swollen and painful and the patient was unable to bear weight on it. He was seen by Dr. Rudnick of San Leandro and a diagnosis of a severe sprain of the left ankle was made. Subsequent thereto, Dr. A. R. Thompson of Berkeley saw the patient and has prescribed treatment. The patient states that although he has had excellent treatment to date, he is still having pain in the left ankle. He is quite concerned over the persistence of his pain and states that he feels that "there must be a fracture in the foot." X-rays in the past have been reportedly negative for fracture.

At the time of my examination, the patient stated that the foot hurts, and he indicates the lateral aspect of the tarsal region and inferior to the lateral malleolar region.

Examination:

The patient is a well developed and nourished white American male, standing 6'1" tall and

Industrial Indemnity Company

-2-

August 24, 1957

RE: Claim No. 57-51-02039
Robert Cuthbertson

weighing 180 pounds. He is in some distress and is noted to walk with a slight left foot limp. The examination of the left foot reveals the foot to be somewhat blanched when compared with the right and in feeling the foot there is noted to be considerable coolness when compared with the right foot. The skin of the left foot is moist, but not excessively so. The posterior tibial pulse is less strong on the left than on the right, as is the dorsalis pedal pulse. There is 1 inch atrophy of the left calf, measurements being 15 over 14; and there is 1/2 inch atrophy of the left ankle, being 10 1/4 over 9 3/4 inches. There is absorbing ecchymosis over the entire lateral and dorsal aspects of the left foot. There is restriction of 10 degrees of plantar flexion and 5 degrees of dorsiflexion, but inversion and eversion are unrestricted on the left.

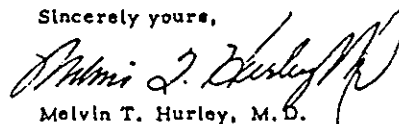
I have had x-rays of both feet taken, and it is noted that there is a diffuse de-ossification of all of the bones of the left foot. The joint space between the third cuneiform and the third metatarsal bone on the left is particularly ill-defined. There is no localized area of bony destruction noted, but there are these changes noted above; particularly de-ossification.

Discussion:

I feel that at the present time Mr. Cuthbertson is exhibiting signs of an early reflex dystrophy or Sudeck's atrophy of the left foot. The clinical findings and x-ray appearance are typically those of an early Sudeck's or reflex dystrophy. When seen on the 19th of August, I started the patient on Priscoline for peripheral vasodilatation of the vascular supply. He has been seen by me on two occasions, the 20th and the 24th. The foot is improving in color and warmth; and, since the patient has been provided with a light Trim-foot arch support to minimize the excursion of bones on weight-bearing, he states he is much improved. I will continue Mr. Cuthbertson on Priscoline for an additional two to four weeks, and then will re-x-ray the foot. Meanwhile, he remains physically able to pursue his usual occupation, and I feel that even though the diagnosis of an early Sudeck's atrophy is apparent permanent disability will not be realized. Continued symptomatic treatment for an additional month is indicated, however.

Thank you for the privilege of seeing Mr. Cuthbertson in consultation and for treatment.

Sincerely yours,


Melvin T. Hurley, M.D.

MTH:ACP

000023

A. R. THOMPSON, M. D.

919 THE ALAMEDA
BERKELEY 7, CALIFORNIA

May 31, 1957

Industrial Indemnity Ins. Co.
268 Grand Ave.
Oakland 10, Calif.

Attention Mr. Wisecorver

Re: Plant Asbestos Co.
Robt. Cuthbertson
Injured 5-23-57

Mr. Cuthbertson was seen at this office again this morning. He is still complaining of severe pain in the left ankle and lower leg. He tends to keep the knee sharply flexed and the foot extended and internally rotated. Yellowish discoloration extends nearly to his knee and to the base of his toes. The area about his left external malleolus is markedly black and blue.

The ankle is still too swollen and sore to permit any weight bearing, or to bind with adhesive tape. The x-rays were reviewed, and I agree that no fracture or dislocations are visible.

In order to facilitate the reduction of swelling and soreness, and hasten active motion, daily physical therapy at Herriok Memorial Hospital was ordered: Whirlpool bath and light massage. Progress will be rechecked after a few days.

The present condition of his ankle would indicate at least two more weeks of disability.

A. R. Thompson
A. R. Thompson, M. D.

000021

FOR COMPANY USE 1. Loc. Code _____ 2. Ind. Code _____ 3. Gov. Class _____ 4. Man. Class _____	DOCTOR'S FIRST REPORT OF WORK INJURY INDUSTRIAL INDEMNITY COMPANY 188 GRAND AVENUE OAKLAND 19 TELEPHONE 1-3102 Immediately after first examination mail one copy directly to the DIVISION OF LABOR STATISTICS AND RESEARCH, P. O. BOX 941, SAN FRANCISCO 1. Failure to file a report with the Division is a misdemeanor. (Labor Code, Sections 6407-6418.) Answer all questions fully.	FOR COMPANY USE Ext. of Inj. _____ Subclassification _____ Federal _____ Subclassification _____ Indemnity _____ Medical _____ Total _____
---	---	---

1. EMPLOYER <u>Piant. Asbestos Company</u> 2. Address <u>1500 64th St., Emeryville, Calif.</u> 3. Business <u>Insulation</u> 4. EMPLOYEE <u>Robert Cunningham</u> 5. Address <u>2438 Garvin Ave., Richmond</u> Phone No. <u>RE-4-6847</u> 6. Occupation <u>Insulation Worker</u> Age <u>22</u> Sex <u>M</u> 7. Date Injured <u>6-23-67</u> Hour <u>8:15 A.M.</u> Date last worked <u>6-23-67</u> 8. Injured at <u>Bayfair Shopping Center</u> County <u>Alameda</u> 9. Date of your first examination <u>6-23-67</u> Who engaged your services? <u>Inj.</u> 10. Name other doctors who treated employee for this injury <u>Leon E. Rudneck, M.D., 15921 E. 14th St., Oak.</u> 11. ACCIDENT OR EXPOSURE: Did employee notify employer of this injury? <u>Yes</u>. Employee's statement of cause of injury or illness: <u>Ladder slipped as he was coming down off a step roof, allowing him to fall about 10 feet onto the second roof, twisting his left ankle as he struck a 2 x 12 timber.</u> 12. NATURE AND EXTENT OF INJURY OR DISEASE (Include all objective findings, subjective complaint, and diagnosis. If occupational disease state date of onset, occupational history, and exposures.) <u>Tender discolored swelling about the left external malleolus and over the side of the foot. Minor abrasion of the skin. Wearing an elastic bandage and on crutches.</u> 13. X-rays: By whom taken? <u>L. E. Rudneck, M.D., 15921 E. 14th St., Oak.</u> Findings: <u>Reportedly negative.</u> 4. Treatment: <u>Elevation, rest and Compresses.</u> 5. Kind of case <u>Office</u>. If hospitalized, date _____ Estimated stay _____ Name and address of hospital _____ 6. Further treatment <u>2 weeks 3 times</u> 7. Estimated period of disability for: Regular work <u>2 weeks</u> Modified work _____ 8. Describe any permanent disability or disfigurement expected <u>None</u> 9. If death ensued, give date _____ 10. REMARKS (Note any pre-existing injuries or diseases, need for special examination or laboratory tests, other pertinent information.) <u>Given a "shot" of Tetanus at Dr. Rudneck's Office.</u> <u>B: Emp. Cod #3. # 38 Sig: prn pain.</u>	Do not write in this space
--	--

Name A. R. Thompson Degree M.D. { PERSONAL SIGNATURE OF DOCTOR } A. R. Thompson

Date of report 6-23-67 Address 917 The Alameda, Berkeley 7 Phone No. LA 4-1051

Use reverse side if more space required

000005

Form 1076 - 28-4

DOCTOR'S FIRST REPORT OF WORK INJURY INDUSTRIAL INDEMNITY COMPANY

150 SANSOME STREET
SAN FRANCISCO 4
YUtes 6-1000

Immediately after first examination send one copy directly to the
DIVISION OF LABOR STATISTICS AND RESEARCH, P. O. BOX 961, SAN FRANCISCO 1.
Failure to file a report with the Division is a misdemeanor. (Labor Code, Sections 4077-4018.)
Answer all questions fully.

FOR COMPANY USE

1. Loc. Code _____
2. Ind. Code _____
3. Gen. Class _____
4. Men. Class _____

FOR COMPANY USE

5. Ext. of Inj. _____
6. Illnesses _____
7. Federal _____
8. Subrogation _____
Indemnity _____
Medical _____
Total _____

1. EMPLOYER Plant Asbestos
2. Address 2438 Garvin Avenue, Richmond, Calif. Phone No. BE 4-5847
3. Business INSULATOR Age 29 Sex M
4. EMPLOYEE (Print name, grade, initials, last name) Robert F. Cuthbertson
5. Address (Ind. St. & City) 2438 Garvin Avenue, Richmond, Calif. Phone No. BE 4-5847
6. Occupation INSULATOR Age 29 Sex M
7. Date Injured 5/23/57 Hour 8:15 A.M. Date last worked _____
8. Injured at work County Alameda
9. Date of your first examination 5/23/57 Hour 8:45 A.M. Who engaged your services? Employer
10. Name other doctors who treated employee for this injury NONE

11. ACCIDENT OR EXPOSURE: Did employee notify employer of this injury? YES Employee's statement of cause of injury or illness: While working on a ladder about ten feet off of the ground, the ladder slipped out from under him and he fell from one roof onto another roof landing on his left foot on a board. Left ankle is swollen and painful. He was not unconscious.

12. NATURE AND EXTENT OF INJURY OR DISEASE (Include all objective findings, subjective complaints, and diagnoses. If occupational disease state date of onset, occupational history, and exposures.) Examination of the left ankle shows moderate swelling over the lateral malleolus and extending onto the foot. Severe tenderness is present to pressure. Skin has a slight xfx abrasion over the dorsal portion of the foot just below the ankle.

Impression: Severe sprain of the left ankle.

13. X-rays: By whom taken? Leon R. Rudnick, M. D.
Findings: Three views of the left ankle, no fracture seen, two views of the left foot. There is a questionable chip on the lateral view off the cuboid or possibly teneiform bone.

14. Treatment: Acc bandage, crutches to the patient.

15. Kind of case (Home, work, or hospital) Office If hospitalized, date _____ Estimated stay _____

Name and address of hospital _____

16. Further treatment (Estimated treatment and duration) Yes

17. Estimated period of disability for: Regular work 2 WEEKS Modified work _____

18. Describe any permanent disability or disfigurement expected (State if none) None

19. If death ensued, give date _____

20. REMARKS (Note any pre-existing injury or disease, need for special examination or laboratory tests, other pertinent information.)

This patient lives in Richmond and states he is unable to return to our office. He is to seek medical care in Richmond for the rest of his treatment.

By Leon R. Rudnick, M. D. Degree _____

Address 15921 E. 14th St., San Leandro Phone No. EL 1-6813

Date of report 6/1/57 Address 15921 E. 14th St., San Leandro Phone No. EL 1-6813

Use reverse side if more space required

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Before the Industrial Accident Commission
of the State of California

RECEIVED
AUG 22 1960
Industrial Accident Commission
Oakland Office

ANSWER

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
AUG 22 1960
Oakland Office

In Re: I.A.C. No. 60 OAK 3913
Our File No. 57-51-02039

ROBERT P. CUMBERBSON

vs

PLANT ASBESTOS COMPANY and
INDUSTRIAL INDEMNITY COMPANY

In answer to the application, we make allegations and we raise the issues which are checked below. Should other issues not now known to be proper and necessary develop later, we reserve the right to raise such additional issues in accordance with the provisions of law and the rules of the Commission.

- | | |
|--|---|
| ☐ Employment | ☐ Earnings at the time of injury |
| ☒ Nature and extent of disability | ☒ Occupation of claimant |
| ☒ Liability for medical treatment | ☐ Insurance coverage (Employer has been notified to appear and defend) |
| ☐ Injury arising out of and occurring in the course of employment | ☐ |
| ☐ Statute of limitations | ☐ |
| ☒ Medical reports have been served as listed in covering letter. | |

Disability indemnity has been paid as follows:

Temporary:
Beginning 5/24/57 to and including 8/4/57; Total \$405.71 @ \$40.00 a week

Permanent:
Beginning NONE to and including ---; Total \$ --- @ \$ --- a week

We believe that the presentation of our evidence will require a minimum of One hour

Estimated number of witnesses, if available 1

INDUSTRIAL INDEMNITY COMPANY

Defendant

PATRICK R. MALONEY

Attorneys for defendant

350 SANSOME STREET, SAN FRANCISCO, CALIFORNIA

Address

NOTE: A COPY of this Answer shall be served on all adverse parties, or their attorneys, and a notation of such service and the parties served must be made hereon.

Parties served:
Smith, Parrish, Paduck & Clancy
501 Financial Center Building
Oakland, California

STATE OF CALIFORNIA
INDUSTRIAL ACCIDENT COMMISSION

ROBERT F. CUTHBERTSON

Applicant

PLANT ASBESTOS COMPANY and
INDUSTRIAL INDEMNITY COMPANY

Defendants

AMENDED COPY

NOTICE OF HEARING

Case No. 60 OAK 3913

You are hereby notified that an application for compensation (a copy of which is attached hereto) has been filed with the Industrial Accident Commission of the State of California. You are further notified that said application has been set for hearing at:

3000 STATE BUILDING

1111 JACKSON STREET

September 23rd, 1960 OAKLAND, CALIFORNIA 10:30 A.M.

PRE-TRIAL CONFERENCE

and that at said time and place the Industrial Accident Commission of the State of California will proceed to hear and dispose of the said application in the manner prescribed by law.

NOTE: The parties are expected to submit all issues in controversy for decision at this hearing; therefore, all necessary witnesses, evidence, documents, medical reports, payrolls, and other material proof must be available and ready for submission at the hearing.

Dated: OAKLAND, CALIFORNIA

INDUSTRIAL ACCIDENT COMMISSION

By

Assistant Secretary

The undersigned certifies that as an employee of the Industrial Accident Commission she served the foregoing notice on the parties hereinafter mentioned, at the time set opposite their respective names, by depositing a copy of said notice attached to a copy of the application therein mentioned, in a sealed envelope in the United States mail on said day, at Oakland, California, with the postage thereon fully prepaid, and addressed to the said parties at their last known places of business or residence, as follows, to wit:

NAMES OF PARTIES SERVED

DATE OF SERVICE

Robert F. Cuthbertson, 2438 Garvin Avenue, Richmond, California
Smith, Parrish, Paduck & Clancy, 501 Financial Center Bldg., Oakland, California
Plant Asbestos Company, 1351 Ocean Avenue, Emeryville, California
Industrial Indemnity Company, 350 Sansome Street, San Francisco, California

September 15th, 1960

fc

[SIGNATURE]

F. Cuthbertson

00000

INDUSTRIAL INDEMNITY COMPANY

Oakland Office: 268 GRAND AVENUE, OAKLAND 10, CALIFORNIA
Telephone TREmples 1-3801

September 20, 1960

Industrial Accident Commission
RECEIVED
SEP 21 1960
Oakland Office

Industrial Accident Commission
1111 Jackson Street
Oakland, California

SUBJECT: Robert Guthbertson vs. Plant Asbestos Company
Our File No. 57-51-02039
I.A.C. No. 60 OAK 3913

Gentlemen:

Enclosed for filing as Defendant's Exhibit next in order, please find report of Dr. Melvin T. Hurley, dated September 16, 1960.

Copy of this report is being served on Applicant's Attorney this date.

Sincerely,

Patrick R. Maloney
Patrick R. Maloney
Attorney at Law

PRM/df
Encl.

cc: Smith, Parrish, Paduck & Clancy, Attorneys at Law
405 - 14th Street, Oakland 12, California

000000

MEMBERS
OF FIRM

EDWIN A. CLANCY, JR.
JOHN B. LEWIS
C. PAUL PADUCK
WM. SHANNON PARRISH
JOSEPH EDWARD SMITH
DEAR W. WRIGHT

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING • 408-14TH STREET • OAKLAND 12, CALIFORNIA
September 8, 1960.

Industrial Accident Commission
~~XXXXXXXXXXXX~~ 1111 Jackson
Oakland, California

Re: Robert Cuthbertson vs. Plant Asbestos Co. & Ind. Indem.
case # OAK 3913

Gentlemen:

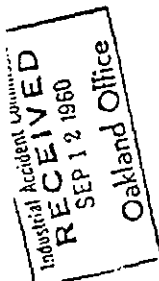
Enclosed herewith find Medical Report of Dr. Eisenberg
request be introduced as applicant's exhibit next
in order.

Also enclosed is bill which we request be allowed
as litigation expenses.

Very truly yours,

cc: Industrial Indemnity Co.
268 Grand Ave., Oakland

SMITH, PARRISH, PADUCK & CLANCY



000000

INDUSTRIAL INDEMNITY COMPANY

San Francisco Division: 350 SANSOME STREET, SAN FRANCISCO 4, CALIFORNIA

Telephone YUkon 6-1000

August 19, 1960

RECEIVED
AUG 22 1960

Industrial Accident Commission
Oakland Office

Industrial Accident Commission
1111 Jackson Street
Oakland, California

Re: Robert F. Cuthbertson vs.
Plant Asbestos Company
Claim No. 57-51-02039
I.A.C. No. 60 OAK 3913

Gentlemen:

Enclosed please find Answer in the above entitled matter
together with our complete medical file as follows:

Leon R. Rudnick, M.D.	6/1/57.
A.R. Thompson, M.D.	5/23/57, 5/31/57.
Melvin T. Hurley, M.D.	8/24/57, 9/28/57, 12/30/57, 2/6/58, 6/12/58, 10/25/58, 5/30/59.

Copies of the Answer and our complete medical file have
been forwarded to the applicant's attorney.

Very truly yours,

Patrick R. Maloney
Patrick R. Maloney
Claims Attorney

FRM:mec

Encl.

cc: Smith, Parriah, Paduck & Clancy
501 Financial Center Building
Oakland, California

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SERVICE

Lien Claimant		
Applicants		
✓	Robert F. Cuthbertson	2438 Carvin Ave., Richmond
Attorney for Applicant		
✓	Smith & Parrish	501 Financial Center Bldg., Orlando
Employer		
✓	Plant Asbestos	1300 - 64th St., Emmelle
✓	J. T. Thorpe	1351 Ocean Ave., Emmelle
✓	Western Asbestos	675 Townsend St., S. F.
✓	Armstrong Cork	304 Shaw Road, S. F.
Attorney for Employer		
Insurance Company Dismissed 10-2-57		
✓	Union Mutual Life Ins. Co.	300 Sansome St., S. F.
✓	Travelers Insurance Company	315 Montgomery St., S. F.
✓	Pacific Employers Ins. Co.	244 Pine St., S. F.
✓	State Compensation Ins. Fund	450 McAllister St., S. F.
✓	Standard Accident & Indemnity Ins. Co.	433 California St., S. F.
✓	Industrial Indemnity Company	350 Sansome St., S. F.
Attorney for Insurance Company		
✓	Hanna & Brophy	100 Bush St., S. F.
✓	Mullen & Filippi	915 Montgomery St., S. F.
Others		

OFFICIAL ADDRESS

SERVICE AND DATE

7-8-57
DEC 13 1957
3-16-62

			Lien Claimant	
			Applicants	
✓	✓	✓	Robert F. Cuthbertson	2438 Garvin Ave., Richmond
			Attorney for Applicant	
✓	✓	✓	Smith & Parrish	501 Financial Center Bldg., Oakland
✓	✓	✓	Employer	
✓	✓	✓	Plant Asbestos	1300 - 64th St., Emeryville
✓	✓	✓	J. T. Thorpe	1351 Ocean Ave., Emeryville
✓	✓	✓	Western Asbestos	675 Townsend St., S.F.
✓	✓	✓	Armstrong Cork	304 Shaw Road, S. F.
			Attorney for Employer	
✓			Insurance Company Dismissed 10-22-57	
✓	✓	✓	Union Mutual Life Ins. Co.	300 Sansome St., S. F.
✓	✓	✓	Travelers Insurance Company	315 Montgomery St., S. F.
✓	✓	✓	Pacific Employers Ins. Co.	244 Pine St., S. F.
✓	✓	✓	State Compensation Ins. Fund	450 McAllister St., S. F.
✓	✓	✓	Standard Accident & Indemnity Ins. Co.	433 California St., S. F.
✓	✓	✓	Industrial Indemnity Company	350 Sansome St., S. F.
			Attorney for Insurance Company	
✓	✓	✓	Hanna & Brophy	100 Bush St., S. F.
✓	✓	✓	Mullen & Filippi	915 Montgomery St., S. F.
			Others	
				00000

OFFICE MEMO

STD FORM 100 (REV. 1-67)

To:	WCAB - OAKLAND	Date:	4/12/78
From:	Beverly Emerson WCAB - SAN FRANCISCO	Phone:	557-0680
Subject: ARCHIVES FILES		RECEIVED APR 13 1978	

FILED
DIVISION OF INDUSTRIAL ACCIDENTS
OAKLAND OFFICE

Please forward the following files to our
office at my attention:

BOODALE, Fred 62 OAK 8566

CUTHBERTSON, Robert 67 OAK 1053, 60 OAK 3913

EVERETT, Allan 63 OAK 11139

Ordered 4-13-78
EB

THANKS *J*

STATE OF CALIFORNIA

000005

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

2 CASE NO. 59 OAK 1053

3 ROBERT F. CUTHBERTSON)

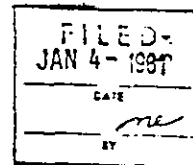
4 Applicant)

5 vs)

6 PLANT ASBESTOS COMPANY, J. T.)
7 THORPE, WESTERN ASBESTOS COMPANY,)
8 ARMSTRONG CORK, TRAVELERS INSURANCE)
9 COMPANY, INDUSTRIAL INDEMNITY)
10 COMPANY, PACIFIC EMPLOYERS)
11 INSURANCE COMPANY, STANDARD)
12 ACCIDENT INSURANCE COMPANY, and)
13 STATE COMPENSATION INSURANCE FUND)

14 Defendants)

DECISION
AFTER RECONSIDERATION



15 Reconsideration having been granted herein and the
16 matter having been carefully considered, including the report of
17 examination by the Independent Medical Examiner, as well as the
18 record as a whole, this Commission now concludes that further
19 proceedings are not essential for the disposition of the claim,
20 and makes its Decision After Reconsideration, as follows:

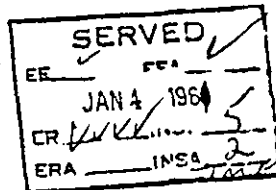
21 GOOD CAUSE APPEARING THEREFOR,

22 IT IS ORDERED that the Findings and Order, filed herein
23 December 15, 1959 be, and the same hereby is, affirmed and adopted
24 as the Decision After Reconsideration.

25 INDUSTRIAL ACCIDENT COMMISSION
26 OF THE STATE OF CALIFORNIA

27 *L. A. Lawrence*
28 *Elton G. Lawrence*

29 Commissioners



ROBERT F. CUTHBERTSON

vs.

PLANT ASBESTOS
COMPANY, et al

JAN 4 1961

December 29, 1960

CASE NO. 59 OAK 1053

REPORT OF PANEL ONE

Based upon the report dated March 30, 1960 by Dr. Shipman, Independent Medical Examiner, it is the conclusion of the Panel that applicant did not sustain injury arising out of his employments from July 1947 through December 1958. The Panel further concludes that the disability complained of by applicant was not caused by any injury arising out of and occurring in the course of his employments.

Decision After Reconsideration should accordingly issue.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F. A. Lawrence
Ellen C. Lawrence

Commissioners

000007

ROBERT F. CUTHBERTSON vs. STATE COMPENSATION INSURANCE FUND, et al.

Claud M. Dunn, Referee
December 13, 1960

Claim No. OAK 1053

REPORT OF REFEREE ON DECISION AFTER RECONSIDERATION

Referee Ankele, who heard practically this entire matter, issued a denial award, the claim being one of asbestosis. The matter was exhaustively handled medically. Subsequent to the submission of the same, the parties agreeing upon an independent medical examiner, H. Corwin Hinshaw, M.D., served in this capacity. The Panel, wishing further exploration of the problem, itself authorized an examination by Sidney Shipman, M.D. It was for the cross-examination of this doctor that the matter was assigned to this Referee.

The three doctors, Hinshaw, Shipman and Brown, are in unanimity in their opinion that the applicant does have asbestos particles in his lungs, but they are non-disabling, do not require treatment, and that the degree of observation required as a result thereof is not any more than anyone else. Based thereon this Referee submits as recommendation to the Panel a ratification of the decision originally issued by Referee Ankele. The same is submitted herewith.

Claud M. Dunn
CLAUD M. DUNN, Referee

CMD by

RECEIVED
DEC 13 1960

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CUTHBERTSON--59 OAK 1053

Injury: Asbestosis

CLAUD M. DUNN, Referee
San Francisco, 7-6-60

REPORT OF REFEREE
ON HEARING AFTER RE-HEARING GRANTED

SIDNEY SHIPMAN, M.D., qualifications stipulated, testified that pursuant to the appointment by the Panel, he had seen the applicant and that there had been made available to him the pathological report, laboratory analysis of lung tissue and the reports of Drs. Watson and Kinshaw.

Testified that there was no demonstrable evidence of asbestosis. There was no disability at that time, but the man did have asbestos particles in the lungs, as well as a fibrosis. As the years go by the man may develop symptoms but he does not have them now. He does have an occupational foundation therefor.

Complaints of chest pain, vague in location, were compatible with asbestosis, and periodic x-rays, due to the presence in the lungs of the asbestos bodies, were indicated the same as for everyone else working in a similar line of wage earning capacity as the applicant, but no greater. Testified that it was his opinion that as yet the man did not have any lung disease. He probably would not have. There was, however, definite evidence of the existence in the man's lungs of asbestos bodies adequate in size to produce the disease. Testified that he made this statement even though the symptoms were not entirely consistent with the diagnosis of asbestosis. He differentiated between silicosis and asbestosis in that silicosis set up a fibrotic reaction which asbestosis did not.

Testified that the applicant ought to have x-rays every six months for several years and then the same every year the same as every other employee similarly employed. Testified it was true that there were bodies present in the lungs and there was some tissue reaction but that these conditions were insufficient to cause disability.

Testified after cross-examination of all the various counsel present that he was still of the same opinion as set forth in his report.

DISPOSITION: (See Minutes of Hearing.)

CMD:16

CLAUD M. DUNN, Referee

COPIES

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

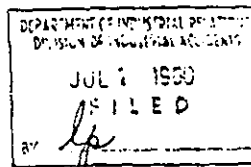
ROBERT F. CUTHBERTSON,

Applicant

vs.
PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG CORK,
TRAVELERS INSURANCE COMPANY, INDUSTRIAL
INDEMNITY COMPANY, PACIFIC EMPLOYERS
INSURANCE COMPANY, STANDARD ACCIDENT
INSURANCE COMPANY, and STATE COMPENSATION
INSURANCE FUND, Defendants

No. 59 OAK 1053

MINUTES OF HEARING
(RECONSIDERATION)



Place and Time: San Francisco, 7-6-60, 9:00 a.m.

Referee: DUNN
Reporter: PARKER

Appearances: Applicant present; represented by Smith, Parrish, Paduck
& Clancy, Attorneys (Joseph E. Smith appearing)

Defendant carriers Travelers Insurance Company and Standard
Accident Insurance Company represented by Hanna & Brophy,
Attorneys (Ivan Schwab appearing)

Defendant carrier Pacific Employers Insurance Company rep-
resented by Mullen & Filippi, Attorneys (John Moore appear-
ing)

Defendant carrier Industrial Indemnity Company represented
by Patrick R. Maloney, Attorney

Defendant carrier State Compensation Insurance Fund repre-
sented by James Vonk, Attorney

WITNESS: Sidney J. Shipman, M.D.

DISPOSITION: Twenty days to the parties for further filings, this re-
lating particularly to a Compromise and Release; the time
to be extended on the request of any interested person;
otherwise submitted.

7-6-60 26pp

000910

Before the Industrial Accident Commission
of the State of California

ROBERT F. CUTHBERTSON,

Applicant

vs.

PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORK, TRAVELERS INSURANCE COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY, and
STATE COMPENSATION INSURANCE FUND,

Defendant

Case No. 59 OAK 1051

Notice of Time
and Place of
Further Hearing

RECEIVED
MAY 16 1960
FILED

NOTICE TO ALL PARTIES

You are hereby notified that further hearing will be held in the above-entitled action at

ROOM 2202
455 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA

JULY 6, 1960 -- 9:00 A. M.

CROSS EXAMINE DR. SHIPMAN
ON RECONSIDERATION GRANTED.

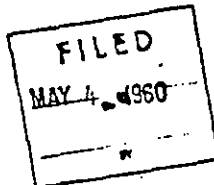
Dated at:
San Francisco, Calif.
May 16, 1960

INDUSTRIAL ACCIDENT COMMISSION

NOTE: CONTINUANCES AND FURTHER HEARINGS ARE NOT FAVORED.

SERVICE UPON:

Robert F. Cuthbertson, 2438 Garvin Ave., Richmond, Calif.
Smith & Parrish, 501 Financial Center Bldg., Oakland, Calif.
Plant Asbestos, 1300 - 64th St., Emeryville, Calif.
J. T. Thorpe, 1351 Ocean Ave., Emeryville, Calif.
Western Asbestos, 675 Townsend St., San Francisco, Calif.
Armstrong Cork, 304 Shaw Road, San Francisco, Calif.
Traveler's Insurance Co., 315 Montgomery St., San Francisco, Calif.
Pacific Employers Insurance Co., 244 Pine St., San Francisco, Calif.
State Compensation Insurance Fund, Personal Service
Industrial Indemnity Co., 350 Sansome St., San Francisco, Calif.
Hanna & Brophy, 100 Bush St., San Francisco, Calif.
Mullen & Filippi, 315 Montgomery St., San Francisco, Calif.
Standard Accident Insurance Co., 433 California St., S.F., Calif.



MAY 3 1960

ROBERT F. CUTHBERTSON v. PLANT ASBESTOS COMPANY,
J. T. THORPE, et al

May 3, 1960

Case No. OAK 1053

REPORT OF PANEL ONE

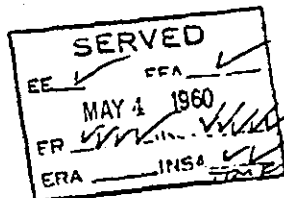
Pursuant to request dated April 21, 1960, by applicant,
the case should be returned to the calendar for cross-
examination of Dr. Shipman, the independent medical
examiner.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

PA. Yonreave

Edwin G. Lawler

James D. Downey DEPT. 13
COMM. RECORDS
Commissioners



Ref. Ankele

000013

Before the Industrial Accident Commission
of the State of California

ROBERT F. CUTHBERTSON,

Applicant

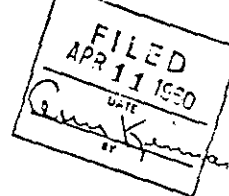
vs.

PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORK, TRAVELERS INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
and STATE COMPENSATION INSURANCE FUND,
Defendants

Case No. OAK 1053

NOTICE OF
INTENTION TO

SUBMIT



IT APPEARING THAT the report of the Independent Medical Examiner,
Sidney J. Shipman, M.D., dated March 30, 1960, served herewith, has
been received and filed in evidence,

NOTICE IS HEREBY GIVEN that the above-entitled case will stand submitted
for decision upon the record as made, including said report,

10 days after service hereof unless Good Cause to the contrary is shown in writing within
said time .

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

Edwin C. Lawton
Commissioner
xxx Commissioners

FILED AND SERVED:

APR 11 1960
Smith, Parrish, etal, 501 Financial Center Bldg., Oakland
State Compensation Insurance Fund, Personal Service
Mullen and Filippi, 315 Montgomery St., S.F.
Hanna and Brophy, 1540 San Pablo Ave., Oakland
Industrial Indemnity Co., 550 Sansome Street, S.F.

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als
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SIDNEY J. SHIPMAN, M.D.
ROBERT W. CLARKE, M.D.
ELIZABETH M. GALBRAITH, M.D.
400 FORT STREET
SAN FRANCISCO 2

March 30, 1960

Industrial Accident Commission
455 Golden Gate Avenue, Room 2202
San Francisco, California

From: Sidney J. Shipman, M.D.

Concerning: Robert F. Cuthbertson, No. 333208
2438 Garvin Avenue
Richmond, California

Gentlemen:

The following is my report on Mr. Cuthbertson who reported for examination on March 18, 1960, at your request:

General History: Age 31. Born May 4, 1928 in Albany, California. Married and has 3 children. Home address: 2438 Garvin Avenue, Richmond, California.

The Problem: The diagnosis of asbestosis has been made in this case, based upon history of exposure and a pulmonary biopsy. Does asbestosis really exist in a clinical sense and, if so, what is the degree of disability?

Chief Complaint: The patient says that prior to operation he had pain in the left chest but this was so long ago that he is uncertain as to its exact nature, whether it was sharp or dull or whether it was aggravated by breathing. Since the operation, his pain is substernal and radiates to both sides.

Family History: The father died of cancer of the larynx at age 48; Mother is living and well, as are two sisters. Patient has a twin brother who is said to have asbestosis.

Marital History: Wife living and well, as are three children, ages roughly 11, 6 and 4.

Past History: Operations: Tonsillectomy at age 19, with good results. Biopsy of lung tissue and subtotal lobectomy in August, 1958.
Accidents: Foot injured in 1957 with fair recovery.
Adult diseases: See Present Illness.
Childhood diseases: Usual, with good recovery.
Habits: Has never used alcohol to excess. He smoked in the past up to a package a day but has not smoked for over a year.

See Page 2

SERVICE ON: INDEPENDENT
Smith & Parrish, 501 Financial Center Bldg., Oak.
State Comp. Ins. Fund, Personal Service
Mullen & Filippi, 315 Montgomery St., S.F.
Hanna & Brophy, Oak.

Ind. Indem. Co., S.F.

RECEIVED
APR 5 1960
Industrial Accident Commission

000012

March 30, 1960

- Vascular System - Radial pulses equal and synchronous, of fair volume but diminished tension. Vessel walls not thickened. Blood pressure 105/65.
- Heart - PMI not seen or felt. No palpable thrill. The sounds are of fair quality. Rhythm regular. A2 is equal to P2. There are no adventitious sounds heard.
- Chest - Expansion good throughout. There is a well healed thoracotomy scar over the lower right chest extending forward to the anterior axillary line; not tender.
Right lung - note good. Breathing vocal resonance apparently normal. No rales.
Left lung - same as right.
- Abdomen - No masses. No tender areas made out. No palpable viscera.
- Genitalia - Normal adult male.
- Extremities - No clubbing. No cyanosis. No varicosities.
- Reflexes - Knee jerks equal and active. No pathology made out.
- Vital Capacity - 1 second, 2000 cc.
Total, 4000 cc.
- Fluoroscopy - Both leaves of the diaphragm move well, although there is obliteration of the right costophrenic angle. The heart and great vessels are within normal limits. The root shadows are somewhat accentuated. The parenchymal zones seem clear.
- X-ray films - 10/10/53 - Heart and great vessels within normal limits. Root shadows normal. Costophrenic angles clear. Parenchymal zones are clear.
11/13/54 - No change.
3/17/55 - No essential change.
9/10/59 - Taken by Dr. H. Corvin Hinshaw - now reveals linear densities in the right base with some intervening density characteristic of pleural reaction.
11/19/59 - Taken by Dr. Cabot Brown - essentially unchanged.
3/18/60 - Slight pleural thickening and linear densities in the right lower chest, chiefly anterior, comparable to those seen in films of 9/10/59 and 11/19/59.
- Laboratory Work - 3/18/60, Urinalysis - Clear, amber. Specific Gravity 1.025. Acid reaction. Albumin & sugar negative. Few hyaline casts. Few squamous epithelial cells. Pus cells, 0-2 per h.d.f. R.B. cells. None seen.
3/18/60, Complete Blood Count - Hemoglobin 88%, 14.8 gm Erythrocytes 5,010,000. Color index .88. Slight achromin. Leukocytes 9,800. Neutrophils 67%, of which 64% were mature; 3% stab cells. Lymphocytes 28. No monocytes. 3 Eosinophils; 2 basophils.
3/18/60, Kolmer - Negative.
3/18/60, VDRL - Negative.

See Page 4.

C00015

March 30, 1960

Past History

Habits (cont'd): No nycturia. Appetite fair. Digestion good. Bowels regular. Does not sleep well because of nervousness.

Occupational History:

Patient says he has worked with asbestos and insulating materials since 1947 for various contractors, both inside and out. He has never worn a mask prior to November, 1958, when he was told he had asbestosis. Since that time he has worn a mask. Patient is somewhat indefinite about his employment and the composition of the materials used. See "Discussion" for further information.

Present Illness:

Mr. Cuthbertson says that he has ^{had} some chest pain, chiefly on the left side, the exact nature of which he is unable to recall, for several years. It may have begun in 1957 or even prior to that time, but it became severe enough in February, 1958 to cause him to consult his physician. The doctor ordered some x-rays and detected something abnormal in the films which he pointed out to the patient and for which he recommended a consultation with Dr. Gerald Crenshaw of Oakland. Dr. Crenshaw did a thoracotomy on August 13, 1958 and removed a specimen of lung tissue and some of the pleura for examination. The patient believes that these specimens showed the presence of asbestos bodies. Following operation, Cuthbertson had a normal convalescence but his pain was not relieved. It was substernal and spread into both sides of the chest. Rather than being made worse by deep breathing it was somewhat improved. He has had colds following operation and raises a small amount of sputum, but this has never been marked. At present he is working as before.

Physical Examination:

A well developed and nourished man appearing perfectly well. He looks somewhat younger than his stated age of 31 years. He is pleasant and cooperative, although he states he doesn't think much of doctors. Temperature 98.6. Pulse 74. Respirations 16. Weight 183 pounds. Height 69 inches.

Eyes

- Pupils equal and regular, reacting normally to light and in accommodation. The extra ocular movements are normal.

Ears

- The canals are clean. Tympanic membranes are normal.

Nose

- No gross obstructions.

Mouth

- Teeth in fair condition. Tongue clean. Pharynx injected.

Glandular System

- Thyroid palpable but not enlarged. No adenopathy noted.

See Page 3.

000213

March 30, 1960

Discussion: I have examined the voluminous file in this case, including the report of the hearing before the Industrial Accident Commission of 11/25/59; the report of the Referee, dated 8/13/59; the hospitalization record from the Richmond Hospital Association, Cuthbertson #1053; the employment record from 1947 to 1958, showing employment by several concerns as listed; Dr. Hinshaw's report addressed to Hanna & Brophy, dated 9/22/59; Dr. Garland's report dated 10/12/59; Laboratory analysis of lung tissue dated 12/31/58, signed by W. C. Thielen; the transcript of testimony before Mr. Ankele of 10/22/59; Dr. Brown's report of 11/19/59, addressed to Mr. Schwab; Mr. Ankele's opinion filed 12/15/59; Joseph E. Smith's Petition for Reconsideration dated 1/4/60; Hanna & Brophy's answer to the Petition, filed 1/11/60; John W. Moore's answer as well as the answer of Patrick R. Maloney; together with a large amount of miscellaneous correspondence and material. The results of my personal examination today reveal no evidence of abnormality except a thoracotomy scar on the right side of the chest and the thickened pleura at the base of the right lung. My examination indicates that there is no disability at this time. What makes this case difficult is that Dr. Crenshaw obtained a specimen of lung and the specimen showed the presence of asbestos bodies. Does this mean that the patient has asbestosis? It certainly does not mean that he is sick or disabled and in a clinical sense it does not mean that the disease, asbestosis, exists. The diagnosis of the disease, asbestosis, depends upon:

- (1) A history of exposure to asbestos dust
- (2) The radiological appearance consistent with asbestosis and, usually,
- (3) A symptomology consistent with the diagnosis together with,
- (4) Evidence of impaired pulmonary function in most cases

The amount of exposure necessary to produce the disease is hard to determine and varies somewhat from person to person as we find in silicosis. Moreover, the size of the dangerous particles varies more than in silicosis. In this case 2, 3 and 4 are not consistent with the diagnosis of any type of pneumokoniosis. Thus, essential criteria for making the diagnosis of the disease in this case are lacking, in spite of the finding of asbestos bodies in the lung tissue which Dr. Crenshaw removed. In general, I agree with Dr. Hinshaw's report and with the discussion of Dr. Brown dated November 19.

Sincerely yours,

INDEPENDENT
MEDICAL
EXAMINER

Sidney J. Shipman, M. D.

SJS:an
Encls. cc's (2)
Encls. statements (3)

C00017

Suite 1049

Phone DOuglas 2-7777

LUCIEN D. HERTERT M. A.
Clinical Laboratory Biologist
490 Post Street
San Francisco 2

Date March 18, 1960

Patient Robert Cuthbertson
Doctor Shipman
Request Wassermann

Kolmer Negative

VDRL Negative

✓

Lucien D. Hertert

009713

Suite 1049

Phone DOuglas 2-7777

LUCIEN D. HERBERT M. A.
Clinical Laboratory Bioanalyst
490 Post Street
San Francisco 2

Date March 18, 1960

Patient Robert Cuthbertson

Doctor Shipman

COMPLETE BLOOD COUNT

Hemoglobin	88 %	Leukocytes	9,800
Hct	34.8 gm. per 100 cc. blood	Neutrophils	67 %
Erythrocytes	5,010,000	of which 64 % were mature	
Color index	.88	3 % were stab cells	
Achromia	Slight	0 % were metamyelocytes	
Anisocytosis	None	0 % were myelocytes	
Poikilocytosis	"	Lymphocytes	28 %
Polychromatophilia	"	Monocytes	0 %
Stippled Cells	"	Eosinophils	3 %
Nucleated Red Cells	"	Basophils	2 %

Remarks—

Lucien D. Herbert

600019

SUITE 1040

PHONE DOUGLAS 2-7777

LUCIEN D. HERTERT, M. A.
CLINICAL LABORATORY
MEDICO-DENTAL BUILDING
400 POST STREET
SAN FRANCISCO 2

DATE March 18, 1960

PATIENT Robert Culbertson
DOCTOR Shipman

URINALYSIS

Transparency	Clear	Casts	Few hyaline
Color	Amber		
Specific Gravity	1.026	Epithelial Cells	Few squamous
Reaction	Acid		
Albumin	Negative	Pus Cells	0-2 per h. d. f.
Sugar	"	R. B. Cells	None seen
Bile Pigments	"	Crystals	"
Acetone	"	Amorphous Sediment	"
Diastase	"		"

Remarks:

Lucien D. Hertert

C98730

EDWIN A. CLANCY, JR.
JOHN B. LEWIS
C. PAUL PADUCK
WM. SHARRON PARRISH
JOSEPH EDWARD SMITH
DEAN W. WRIGHT

LAW OFFICES OF
SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING • 408-14TH STREET • OAKLAND 12, CALIFORNIA

March 16, 1960

RECEIVED
MAR 17 1960
Department of Industrial
DIVISION OF ACCIDENTS

Industrial Accident Commission
455 Golden Gate Avenue
San Francisco, California

Reference: Robert F. Cuthbertson v. Western Asbestos Co.
OAK 1053

Attention: Edward C. Neely
Referee in Charge

Gentlemen:

We have received notice of the appointment of Dr. Sidney Shipman as independent medical examiner in the above case.

We would request that the lung specimens be referred to Dr. Shipman, and that he have a pathologist examine these specimens for evidence of asbestos.

We also respectfully request that the transcript of Dr. Crenshaw's testimony be forwarded as well.

Very truly yours,

SMITH, PARRISH, PADUCK & CLANCY

Joseph E. Smith

JES:mr

cc: Mr. Patrick Maloney
Attorney at Law
350 Sansome Street
San Francisco, Calif.

cc: Mr. Ivan Schwab
Attorney at Law
1540 San Pablo Avenue
Oakland, California

cc: Mullen & Filippi
Attorneys at Law
315 Montgomery Street
San Francisco, California

cc: State Compensation Ins. Fund
450 McAllister Street
San Francisco, California

cc:

000001

WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT H. MAC LEAN
JOHN A. MAC DONALD
EDWARD P. MC ALSEER
HERBERT C. JENSEN
EDWARD W. KORAS

J. M. MC ELRATH
THOMAS B. RICHARDSON
DONALD V. MITCHELL
GRIGGS M. EHLMAN

LAW OFFICES OF
HANNA & BROPHY
1840 SAN PABLO AVENUE
OAKLAND 18, CALIFORNIA
TELEPHONE 2-8889

RECEIVED
MAY 14 1960
Department of Industrial Relations
DIVISION OF INDUSTRIAL
ACCIDENTS

March 11, 1960

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG.
FRESNO 21, CALIF.

SACRAMENTO OFFICE
929 J STREET
SACRAMENTO 24, CALIF.

SAN JOSE OFFICE
1000 HEDDING STREET
SAN JOSE 28, CALIF.

Industrial Accident Commission
P. O. Box 603
San Francisco, California

Attention: Edward C. Neely
Referee in Charge

Re: Robert F. Cuthbertson vs.
Plant Asbestos Co., et al
I.A.C. Claim OAK 1053

Gentlemen:

On behalf of the defendants Travelers Insurance Company and Standard Accident Insurance Company, we join in the objections of the defendants Industrial Indemnity Company and Pacific Employers Insurance Company to the receipt in evidence of the report of Dr. Roger H. Wilson, dated February 9, 1960.

Your secretary has advised me that this case has been forwarded to the Medical Bureau for the appointment of an independent medical examiner. On January 20, 1960, I had a telephone conversation with the attorney for the applicant in which he advised me that he had arranged for an examination of the applicant by Dr. Roger Wilson, and that such examination had been completed. This should be called to the attention of your Medical Bureau, as it means that neither Dr. Wilson, nor either of his office associates, Doctors Seymour M. Farber or Mortimer A. Benioff, is eligible for appointment as an independent medical examiner.

Very truly yours,

Dean G. Schuch

IAS:ER

c.c. Smith, Parrish, Paduck &
Clancy, Attorneys at Law
Financial Center Bldg., Oakland
c.c. Mullen & Filippi, Attorneys at Law
315 Montgomery St., S.F.
c.c. State Fund - S.F.
c.c. Industrial Indemnity Co., S.F.
c.c. Travelers Ins. Co., Oakland
(B-8972691)
c.c. Standard Acc. Ins. Co.
San Bruno (96-C 960794)

COPIED

RECEIVED

MAR 10 1960

Department of Industrial Relations
DIVISION OF INDUSTRIAL ACCIDENTS

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

2 CLAIM NO. OAK 1053

3 ROBERT F. CUTHBERTSON,

4 Applicant,

5 vs.

6 PLANT ASBESTOS COMPANY, et al,

7 Defendants.

MOTION TO STRIKE

8
9 COMES now, STATE COMPENSATION INSURANCE FUND, defendant
10 herein, with its Motion to Strike the letter of Roger H. Wilson,
11 M.D. of February 9, 1960 and in this connection shows:

12 That the letter does not constitute newly discovered
13 evidence and does not otherwise comply with the provisions of the
14 Labor Code and of the Rules of Practice and Procedure of the
15 Industrial Accident Commission.

16 WHEREFORE, defendant respectfully objects to the filing
17 of the report and to its receipt into evidence and asks that the
18 report be stricken herefrom.

19 STATE COMPENSATION INSURANCE FUND

20 By *James W. Marshall*
21 Attorney

22 Dated: March 9, 1960

23 c - Mr. Patrick Maloney
24 Attorney at Law
25 350 Sansome Street
26 San Francisco, California

27 c - Mr. Ivan Schwab
28 Attorney at Law
29 1540 San Pablo Avenue
30 Oakland, California

31 c - Mullen & Filippi
32 Attorneys at Law
33 315 Montgomery Street
34 San Francisco, California

35 c - Smith, Parrish, Paduck & Clancy
36 Attorneys at Law
37 501 Financial Center Bldg.
38 Oakland, California
39 Claims Department
40 JVB:rl

000023

Industrial Commission
FILED
MAR 9 1960
Oakland Office

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

CASE NO. OAK- 1053

ROBERT F. CUTHBERTSON
Applicant

vs

Plant Asbestos Company, et al

Defendant

Dr. Shipman:

You are authorized to consult
with a specialist in the field
of pathology if you feel it is
necessary.

Order Appointing
Independent
Medical Examiner

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
MAR 8 1960
Oakland Office

ROBERT F. CUTHBERTSON, an employee claiming compensation,
is hereby directed, under the authority conferred by the Workmen's Compensation LAWS to report
for examination to Dr. Sidney Shipman, a regular practicing
physician, at 490 Post Street, San Francisco, California
on March 18, 1960- Friday, 2:45 p.m. and the said physician is hereby
appointed to make such examination and to report the result thereof to the Industrial Accident Com-
mission for its consideration.

E. NEELY

Referee

Dated this 8th day of March, 19 60

R.F. Cuthbertson
State Compensation Insurance Fund
Smith and Parrish

UNLESS THIS APPOINTMENT IS KEPT, FURTHER PROCEEDINGS
IN REGARD TO THIS CLAIM MAY BE SUSPENDED

Filed:
Served:
EE _____ EEA _____
ER _____ ERA _____
INS _____ INSA _____
LN. CL _____ SUIT _____

000724

OFFICE MEMO

CLAIM No. OAK 1053

APPLICANT'S
NAME Robert F. Cuthbertson

To Panel

This case is presently in Medical for appointment of IME
at COMMISSION EXPENSE since defendants declined to pay for IME.

Dr. Roger H.L. Wilson-2/9/60
Attached is medical report/submitted by applicant as well as

defendant Pac. Emp. Ins. Co Motion to Strike and letter of
objection g from Ind. Indem. Co. Also, I received a call from
Mr. Schwab of Hanna & Brophy stating that the Medical Bureau

often appoints Dr. Benioff as IME and it should be called to
the Medical Bureau's attention that such appointment would not
be in order in this case since Dr. Wilson, whose report has just
be submitted by applicant, is an associate of Dr. Benioff.

DATE 3/7/60

EMc

FORM 502
MAY 1961 EDITION

This information has not been conveyed to the Medical Bureau
by this office.

000025

MEMBERS
OF FIRM

EDWIN A. CLANCY, JR.
JOHN B. LEWIS
C. PAUL PADUCK
WM. SHANNON PARRISH
JOSEPH EDWARD SMITH
DEAN W. WRIGHT

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING • 408-14TH STREET • OAKLAND 12, CALIFORNIA

ingrant recon
1-29-60

RECEIVED
MAY 1 1960
DIVISION OF INDUSTRIAL
ACCIDENTS

February 29, 1960

Industrial Accident Commission
455 Golden Gate Avenue
Room 2202
San Francisco, California

Re: ROBERT F. CUTHBERTSON v.
WESTERN ASBESTOS CO.
IAC No. OAK 1053

Gentlemen:

Enclosed herewith find medical report of Dr.
Roger Wilson, dated February 9, 1960, which is filed
in accordance with the rules of practice and procedure
of the Commission.

Very truly yours,

JE Smith
JOSEPH E. SMITH

Encl: ✓
JES:rb

cc: Industrial Indemnity Co.
Mullen & Filippi
Hanna & Brophy
State Compensation Ins. Fund
IAC Oakland

708

000026

SEYMOUR M. FARBER, M.D.
MORTIMER A. BENIOFF, M.D.
ROGER H. L. WILSON, M.D.
JUDITH D. SMITH, M.D.

2200 VAN NESS AVENUE
SAN FRANCISCO 9, CALIF.
Telephone PRosspect 9-6000

RECEIVED
MAR 1 - 1960
Department of Industrial Hygiene
DIVISION OF INDUSTRIAL ACCIDENTS

February 9, 1960

Joseph E. Smith
Smith, Parrish, Paduck & Clancy
Financial Center Building
405 14th Street
Oakland 12, California

Re: Robert Cuthbertson

Dear Mr. Smith,

Thank you for enclosing the microscopic report on the sections of Robert Cuthbertson. I feel that such a report is consistent with asbestosis of moderate extent. I am basing this upon the pleural fibrosis, the thickened alveolar septa and the presence of asbestos bodies.

It is difficult to tell in a young patient such as this, whether or not he will deteriorate to develop signs of pulmonary failure. It is because of this difficulty in making an accurate prognosis that I think it is important that he should be followed up. It would be my inclination to classify him as a patient with early asbestosis, rather than a patient with asbestos bodies in his lungs.

Yours sincerely,

Roger H. L. Wilson
Roger H. L. Wilson, M.D.

CC: Gerald Grenshaw, M.D.

7 of 7
✓
C00027

RECEIVED

MAR 7 1960

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

ORD. GRANTING RECON
1-27-60

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

2 CLAIM NO. OAK 1053

3 ROBERT F. CUTHBERTSON,

4 Applicant,

5 vs.

6 PLANT ASBESTOS COMPANY, et al,

7 Defendants.

MOTION TO STRIKE

8
9 COMES NOW, Pacific Employers Insurance Company, defendant
10 herein, with its Motion to Strike the letter of Roger H. Wilson,
11 dated of February 9, 1960 and in this connection shows:

12 That the letter does not constitute newly discovered
13 evidence and does not otherwise comply with the provisions of the
14 Labor Code and of the Rules of Practice and Procedure of the
15 Industrial Accident Commission.

16 WHEREFORE, defendant respectfully objects to the filing
17 of the report and to its receipt into evidence and asks that the
18 report be stricken herefrom.

MULLEN & FILIPPI,
Attorneys for Defendant,
PACIFIC EMPLOYERS INSURANCE COMPANY

BY: *John W. Moore*
JOHN W. MOORE

23 Dated: March 4, 1960

25 cc: Industrial Indemnity Co.,
350 Sansome St., San Francisco

26 Hanna & Brophy, Attorneys at Law
27 1540 San Pablo Ave., Oakland

28 State Compensation Insurance Fund
29 450 McAllister St., San Francisco

30 Smith, Parrish, Paduck & Clancy, Attorneys at Law
501 Financial Center Building, Oakland

31 Pacific Employers Insurance Co.
32 3770 Piedmont Avenue, Oakland 11

MULLEN & FILIPPI
ATTORNEYS
110 MONTGOMERY ST.
SUITE 1, OAKLAND
EXTENSION 8-7881
SAN FRANCISCO 4
4/60 t3e

-1-

000028

INDUSTRIAL INDEMNITY COMPANY

San Francisco Division: 350 SANDOME STREET, SAN FRANCISCO 4, CALIFORNIA

Telephone LU 7-62000

RECEIVED

MAR 7 - 1960

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

March 4, 1960

Industrial Accident Commission
P. O. Box 603
San Francisco, California

Subject: Robert F. Cuthbertson vs.
Plant Asbestos Company
Claim No. C 59-51-1671
IAC No. OAK 1053

Attention: Edward C. Neely, Referee in Charge

Gentlemen:

We are in receipt of a medical report of Dr. Roger Wilson, M.D. dated February 9, 1960 which was filed by the applicant's attorney. Industrial Indemnity Company hereby requests that said report be stricken from the record on the ground that there is no showing whatsoever by the applicant that this report is newly discovered evidence as required by the rules and practice of the Commission. This matter has been submitted and properly decided by the Honorable Referee and the filing of this report in the record in this matter, without allowance of time for the defendant to rebut the intentions of the report, is prejudicial and improper.

Defendant Industrial Indemnity Company also maintains that the report itself is not material or relevant to this proceeding because its conclusions contained therein are not based upon any examination or treatment of the applicant or based upon any review of the entire record or history in this matter. The doctor refers to a microscopic report on sections of Robert Cuthbertson without referring to any additional records or material. It is noted that the doctor does not even state what microscopic report he is referring to and for all the information that the parties in this matter have, it could easily refer to the applicant's brother, who also filed a claim for asbestosis.

The conclusion made by the doctor, therefore, is speculative and

File

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RECEIVED

MAR 7 - 1960

-2-

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

conjectural inasmuch as the doctor has not examined the above-named applicant and has not reviewed the entire record or history in this matter.

Request is further made that this report be stricken from the record since Dr. Wilson does not set out in detail the basis for the conclusions reached therein.

Although the report itself does not indicate that the applicant's expensive surgery and medical treatment and hospitalization was in any way necessary or justified, it is still submitted that said report be stricken from the record on the above grounds since this case is complicated enough without adding obscure and speculative reports based upon unidentified microscopic reports and speculative findings that only the doctor is aware of.

Sincerely yours,

Patrick R. Maloney
Patrick R. Maloney
Claims Attorney

PRM:eva

cc: Smith, Parrish, Paduck & Clancy
501 Financial Center Building
Oakland, California
cc: Hanna and Brophy
100 Bush Street
Oakland, California
cc: Mullen and Filippi
315 Montgomery Street
San Francisco, California
cc: State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

✓

007120

MEMBERS
OF FIRM

JAMES A. SMITH JR.
JOHN A. SMITH
W. PAUL SMITH
W. PAUL SMITH
W. PAUL SMITH
W. PAUL SMITH
W. PAUL SMITH
W. PAUL SMITH

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING - 409-14TH STREET - OAKLAND 12 CALIFORNIA

RECEIVED
MAR 1 1960
Oakland Office

February 29, 1960

Industrial Accident Commission
455 Golden Gate Avenue
Room 2202
San Francisco, California

Re: ROBERT F. CUTBERTSON v.
WESTERN ASBESTOS CO.
IAC No. OAK 1053

Gentlemen:

Enclosed herewith find medical report of Dr.
Roger Wilson, dated February 9, 1960, which is filed
in accordance with the rules of practice and procedure
of the Commission.

Very truly yours,

JOSEPH E. SMITH

Encl:
JES:rb

cc: Industrial Indemnity Co.
Mullen & Filippi
Hanna & Brophy
State Compensation Ins. Fund
IAC Oakland

RECEIVED

MAR 1 1960

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

COO:JL

SEYMOUR M. FARBER, M.D.
MORTIMER A. BENIOFF, M.D.
ROGER H. L. WILSON, M.D.
JUDITH A. GERSHAW, M.D.

POST AND REPLY SERVICE
SAN FRANCISCO 9, CALIF.
16-00000-00000-00000

February 9, 1960

Joseph E. Smith
Smith, Parrish, Paduck & Glancy
Financial Center Building
405 14th Street
Oakland 10, California

Re: Robert Guthbertson

Dear Mr. Smith,

Thank you for enclosing the microscopic report on the sections of Robert Guthbertson. I feel that such a report is consistent with asbestosis of moderate extent. I am basing this upon the pleural fibrosis, the thickened alveolar septa and the presence of asbestos bodies.

It is difficult to tell in a young patient such as this, whether or not he will deteriorate to develop signs of pulmonary failure. It is because of this difficulty in making an accurate prognosis that I think it is important that he should be followed up. It would be my inclination to classify him as a patient with early asbestosis, rather than a patient with asbestos bodies in his lungs.

Yours sincerely,

Roger H. L. Wilson
ROGER H. L. WILSON, M.D.

CC: Gerald Gershaw, M.D.

764
000002

WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT N. MAC
JOHN A. MAC DONALD
EDWARD P. MC ALER
HERBERT C. JENSEN
EDWARD W. KORAS
J. M. MC ELRATH
THOMAS E. RICHARDSON
DONALD V. MITCHELL
GRIFFIN M. EHLMAN

RECEIVED
FEB 21 1960

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

LAW OFFICES OF
HANNA & BROPHY
1840 SAN PABLO AVENUE
OAKLAND 18, CALIFORNIA
TELEPHONE 8-8888

February 26, 1960

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG.
FRESNO 21, CALIF.

SACRAMENTO OFFICE
826 J STREET
SACRAMENTO 18, CALIF.

SAN JOSE OFFICE
2000 HEDDING STREET
SAN JOSE 28, CALIF.

Medical

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Industrial Accident Commission
P. O. Box 603
San Francisco, California

Attention: Edward C. Neely
Referee in Charge

Re: Robert F. Cuthbertson vs.
Plant Asbestos Co., et al
I.A.C. No. OAK 1053

Gentlemen:

In compliance with the letter of W. T. Dunbar, dated February 3, 1960, we requested Dr. Cabot Brown to forward all x-rays in his possession to the Industrial Accident Commission. We asked that we be informed of the films forwarded, and enclosed herewith is the letter from his secretary, dated February 19, 1960, listing the films submitted to the Medical Bureau.

My letter of November 12, 1959, to Dr. Cabot Brown, covering his appointment as an agreed medical examiner in this case, contained the following postscript addressed to the attorneys for the applicant:

"I will try to get the lung tissue specimens, the x-rays taken at Herrick Hospital, the Richmond Hospital x-rays, and x-rays taken for Dr. Hinshaw to Dr. Brown. If Dr. Crenshaw ever did take any x-rays, will you see that he forwards them to Dr. Brown."

It is apparent that no x-rays taken for Dr. Gerald Crenshaw were ever submitted to Dr. Cabot Brown. The testimony of Dr. Crenshaw was confusing and ambiguous as to whether he did or did not take x-rays prior to his operation on August 12, 1958.

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Page two - 2/26/60
Re: Robert F. Cuthbertson vs.
Plant Asbestos Co., et al
I.A.C. No. OAK 1053

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FEB 27 1960

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

If this case is to be referred to an independent medical examiner, we respectfully request that, prior to such reference being made, the attorneys for the applicant either:

1. File with the Medical Bureau all x-rays taken for Dr. Gerald Crenshaw; or

2. Give written assurance to the Industrial Accident Commission that Dr. Gerald Crenshaw did not have x-rays taken.

We make this suggestion because we feel that films taken at or about the time of operation would be of extreme importance for any doctor attempting to review the record.

Very truly yours,

John L. Schmitt

IAS:ER
Enc.

- c.c. Smith, Parrish, Paduck &
Clancy, Attorneys at Law
Financial Center Bldg.
Oakland 12, California
- c.c. Mullen & Filippi
Attorneys at Law
315 Montgomery Street
San Francisco, Calif.
- c.c. State Fund - S.F.
- c.c. Industrial Ind. Co.
350 Sansome St., S.F.
(C 50-51-1671)
- c.c. Travelers Insurance Co.
Oakland (8-8972691)
- c.c. Standard Acc. Ins. Co.
San Bruno (96-C 960794)

C00024

CADOT BROWN, M.D.
450 SUTTER STREET
SAN FRANCISCO 9

February 19, 1960

Mr. I. A. Schwab
Hanna & Brophy
1540 San Pablo Avenue
Oakland 12, California

Dear Mr. Schwab:

I am listing below
all of the x-rays we have of Mr.
Robert Cuthbertson, and which have
been mailed to the Medical Bureau
of the Industrial Accident Commission,
455 Golden Gate Avenue, San Francisco.

Herrick Hospital:

3/17/56 - PA and lateral

11/13/54 - PA and lateral

10/10/53 - PA and lateral

Dr. Corwin Hinshaw:

9/10/59 - stereo and lateral

Dr. Gbot Brown:

11/19/59 - stereo and lateral

Yours very truly,

Mrs. Lois Cleveland
Secretary

✓

000025

DEPARTMENT OF INDUSTRIAL RELATIONS
Intra-Departmental Communication

To: Edward Neely, Presiding Referee Date: 12-16-60
Division: Industrial Accident Commission Location: San Francisco
From: Frank A. Lawrence, Presiding Commissioner
Division: Industrial Accident Commission Location: San Francisco
Subject: Robert F. Cuthbertson File No. OAK 1053

Please arrange to have applicant examined by an independent medical examiner, pursuant to Report of Panel dated January 28, 1960.

Said examination is to be at the expense of the Commission.

Thank you.



Frank A. Lawrence
Presiding Commissioner

000005

RECEIVED
INDUSTRIAL INDEMNITY COMPANY
San Francisco Division: 350 Sansome Street, San Francisco 4, California
Telephone: UNion 6-2000

ILL 10110
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

February 11, 1960

OFF SPARTAN
RECON
1-29-60
In Payment
2/4/60

Industrial Accident Commission
455 Golden Gate Avenue
San Francisco, California

Attention: W. T. Dunbar, Presiding Referee

Subject: Cuthbertson vs.
Plant Asbestos Company
Claim No. 59-51-1671
IAC No. CAK 1053

Dear Mr. Dunbar:

Reference is made to your letter of February 3, 1960 regarding the above matter.

Industrial Indemnity Company will not defray the expense in connection with the appointment of an independent medical examiner in the above case. It was our understanding that Dr. Cabot Brown was an agreed independent medical examiner and we had agreed to help defray the expenses of his examination.

We can see no necessity for any additional medical examinations in this case as the present medical record indicates that the applicant has not suffered from asbestosis.

Sincerely yours,

Patrick R. Maloney
Patrick R. Maloney
Claims Attorney

PRM:eva

cc: Smith, Parrish, Paduck and Clancy
501 Financial Center Building
Oakland, California
cc: Hanna and Brophy
100 Bush Street
Oakland, California
cc: Mullen & Filippi
315 Montgomery Street
San Francisco, California
cc: State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

000027

Industrial Accident Commission
RECEIVED
FEB 8 1960
Oakland Office

WHEREFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CLAIM NO. OAK 1053

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
FEB 8 1960

Oakland Office

ROBERT F. CUTHBERTSON,

Applicant,

vs.

PLANT ASBESTOS COMPANY, et al.

Defendants.

OBJECTION TO APPOINTMENT
OF INDEPENDENT MEDICAL
EXAMINER

Comes Now defendant Pacific Employers Insurance Company
with its objection to appointment of an independent medical exam-
er.

Dr. Cabot Brown was agreed upon as an "agreed medical exam-
iner" in the stead and the place of an "independent medical exam-
er" and acted in that capacity.

The medical record of this case clearly shows the Award to
be supported without conflict.

To assign to an independent medical examiner, or any other
examiner, would do no more than to a considerable extent retry the
case.

Your Honorable Commission is in the position of being a
Court of Appeal and is required to consider no more than the record
of the case. To attempt to add evidence which might grant the
prayer of the applicant confers on your Commission the power and
authority delegated to the Referees. It is not intended that your
Commission act in any other capacity than as a judicial body of
appeal.

The matter, therefore, must be submitted from an evidential
standpoint as there is no stipulation or agreement upon the part of
Pacific Employers Insurance Company to add to the record in any way
whatsoever.

WHEREFORE, it is respectfully prayed that as to your answer
the defendant the Award be affirmed and the applicant ordered to

MULLEN & FILIPPI
ATTORNEYS
215 MONTGOMERY ST.
SUITE 1, WASHINGTON
SAN FRANCISCO 4

1 take nothing.

2 To follow the procedure suggested herein would make it pos-
3 sible for an independent examiner upon independent examiner to be
4 appointed until grounds are found for the applicant's contentions.

5
6 Respectfully Submitted:

7 MULLEN & FILIPPI, Attorneys for
8 Pacific Employers Insurance Company

9 By W. N. Mullen
W. N. Mullen

10 Dated at San Francisco, California, this 6th day of February, 1960.

11 Copies this date mailed to:

12 Industrial Indemnity Co.,
13 350 Sansome Street, San Francisco, Calif.

14 Hanna & Brophy, Attorneys at Law,
15 1540 San Pablo Ave., Oakland, Calif.

16 State Compensation Insurance Fund,
17 450 McAllister St., San Francisco, California

18 Smith, Parrish, Paduck & Clancy, Attorneys at Law,
19 501 Financial Center Bldg., Oakland, California

20 Pacific Employers Insurance Co.,
21 3770 Piedmont Ave., Oakland, Calif.

WARREN J. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT N. MAC LEAN
JOHN A. MAC DONALD
EDWARD P. MC ALLEN
HERBERT C. JENSEN
EDWARD W. KORAB

J. M. MC ELRATH
THOMAS B. RICHARDSON
DONALD V. MITCHELL
GEORGE W. BONNEY

LAW OFFICES OF
HANNA & BROPHY
1640 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TELEPHONE 2-8860

RECEIVED
FEB 9 - 1960
DIVISION OF INDUSTRIAL RELATIONS
SACRAMENTO

February 8, 1960

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG
FRESNO 21, CALIF.

SACRAMENTO OFFICE
326 J STREET
SACRAMENTO 14, CALIF.

SAN JOSE OFFICE
2000 HEDDING STREET
SAN JOSE 28, CALIF.

Industrial Accident Commission
455 Golden Gate Avenue
San Francisco 2, California

Attention: Referee W. T. Dunbar

Re: Robert F. Cuthbertson vs.
Plant Asbestos Co., et al
I.A.C. No. OAK 1053

Gentlemen:

I have your letter of February 3, 1960, inquiring as to whether the defendants will defray the expense of an independent medical examiner in this case. I am also in receipt of the objection to appointment of independent medical examiner filed by Pacific Employers Insurance Company. My clients would like additional information before we are in a position to advise you as to whether they would agree to defray the expense of an independent medical examiner.

We should like to be advised as to wherein the Commissioners feel that the medical evidence now in the record is incomplete and why they are of the opinion that a report from an independent medical examiner is indicated. We are uncertain whether the Commissioners fully appreciate the circumstances under which the examination and report by Dr. Cabot Brown was obtained. At the conclusion of the hearing held on October 22, 1959, Referee Ankele stated that he was dissatisfied both with the medical evidence submitted by the applicant and the medical evidence submitted by the defendants. He stated that he wanted a more complete report on the general subject of asbestosis, and he directed the parties to agree upon a medical examiner. He then ordered that the report of the agreed medical examiner be submitted within 45 days from the date of hearing. I wish to emphasize that Referee Ankele entered this as his order, and not as a request by any of the parties. Referee Ankele proceeded to direct the parties that they were to perform the work of making the appointment, arranging for submission of prior x-rays and laboratory reports, and of all prior medical reports to Dr. Cabot Brown. My letter of November 12, 1959, contained the following paragraph:

L

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Page two - 2/8/60
Re: Robert F. Cuthbertson vs.
Plant Asbestor Co., et al
I.A.C. No. OAK 1053

"In view of the medical conflict that exists, Referee Ankele requested the attorneys in the case to agree upon a doctor to examine the applicant and submit a comprehensive report, with the understanding that all parties should be given an opportunity to submit any specific questions they desire covered to the doctor selected. Accordingly, you will probably receive further inquiries from all, or some, of the attorneys named above. Referee Ankele requests that you incorporate in your report a general discussion as to the nature of the disease of asbestosis, with particular reference to the type and size of fibres that cause damage, the extent and degree of exposure required, the time after the inhalation of particles within which symptoms become manifest to the individual, the nature of the symptoms which first develop and the nature of the disability resulting, and the manner in which the disease of asbestosis differs from silicosis."

Dr. Brown did include such a general discussion. Furthermore, the attorneys for the applicant requested Dr. Brown to defer submission of his report until he received a transcript of the testimony of Dr. Gerald Crenshaw, who had testified for the defendants. Dr. Brown did hold up the submission of his report, and after he had reviewed the transcript he added some additional comment, which is numbered points 1, 2, 3 and 4 on pages 4 and 5 of his report of November 19, 1959.

It seems to me that his report adequately disposes of the medical conflict that existed prior to its receipt. You are, of course, familiar with the fact that many referees ask the parties to agree upon a medical examiner. The only difference between a report by such an agreed medical examiner and a report by an independent medical examiner is that the attorneys for the parties, rather than the Medical Bureau of the Industrial Accident Commission, have to do the work of arranging for the appointment.

When the applicant petitioned for reconsideration, the only additional medical evidence that he contended should be obtained was a report of a pathologist. As the answers filed by the defendants point out, that is unnecessary because all that a pathologist could determine would be that fibres of asbestos are present in the specimen of lung tissue obtained at the time of operation, and the defendants concede that the tissue contains fibres of asbestos.

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Page three - 2/8/60

Re: Robert F. Cuthbertson vs.
Plant Asbestos Co., et al
I.A.C. No. OAK 1053

Please advise whether the Commissioners have in mind the designation of a pathologist or the designation of a specialist in diseases of the lung as an independent medical examiner. Dr. Cabot Brown submitted a bill of \$200 for his report. If there is any aspect of the case in which his report is incomplete, I would feel that your Medical Bureau could obtain a supplemental report from him with less delay and expense than if the matter should be sent out to a doctor who has never seen the case before.

Very truly yours,

Ivan A. Schwab

IAS:ER
c.c. Mullen & Filippi
Attorneys at Law
315 Montgomery St.
San Francisco
c.c. State Fund - S.F.
c.c. Industrial Ind. Co.
350 Sansome St., S.F.
(C 59-51-1671)
c.c. Smith, Parrish, Paduck & Clancy
Attorneys at Law
Financial Center Bldg.
Oakland 12, California
c.c. Travelers Insurance Co.
Oakland (B-8972691)
c.c. Standard Acc. Ins. Co.
San Bruno (96-C 960794)

0000-12

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
CASE NO. OAK 1053

ROBERT F. CUTHBERTSON,

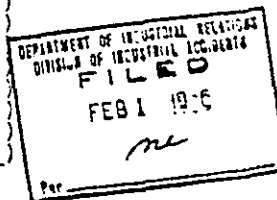
Applicant

v.

PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORK, TRAVELERS INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY
and STATE COMPENSATION INSURANCE FUND,

Defendants

ORDER GRANTING APPLICANT'S
PETITION FOR RECONSIDERATION

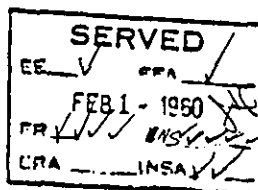


GOOD CAUSE APPEARING THEREFOR,

IT IS ORDERED that applicant's Petition for Reconsideration,
filed herein January 4, 1960, be, and the same hereby is, granted.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F. A. Lawrence
Elton C. Lawrence
Edmund Brown
Commissioners



JAN 29 1961

ROBERT F. CUTHBERTSON v. PLANT ASBESTOS
COMPANY, et al
January 28, 1960 Case No. OAK 1053

REPORT OF PANEL ONE

The Panel is of the opinion that a report of an independent medical examiner will be of assistance to it in the determination of the issue presented.

The Petition for Reconsideration is therefore granted to obtain the opinion of such an examiner, if the parties so agree.

INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

F. A. Lawrence
Edwin C. Lawrence
James R. [illegible]
Commissioners

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RECEIVED

JAN 22 1960

Form 1
Industrial Accident Compensation

JOHN H. ANKELE, REFEREE
Oakland 1-20-60

CUTHBERTSON--CLAIM NO. OAK 1053
Injury: Asbestosis

REPORT OF REFEREE ON APPLICANT'S
PETITION FOR RECONSIDERATION
Due date: February 3, 1960

The employee, an insulator, born May 4, 1928, claims to have sustained an asbestosis.

After hearings, Findings and Order to the effect that applicant did not sustain any injury arising out of or occurring in the course of his employment was served and filed on December 15, 1959.

From this decision applicant petitions for reconsideration contending that the evidence does not justify the denial.

The preponderance of medical evidence in this case clearly indicates that the applicant does not have asbestosis.

It is noted that the applicant quotes from the report of the pathologist as follows:

"asbestos body disposition is moderately advanced."

This is definitely not a finding of asbestosis.

Applicant also quotes from some portions of the testimony of Dr. Crenshaw.

However, the conclusion of H. Corwin Hinshaw, M. D. is to the effect that applicant does not have asbestosis. This is also the conclusion of Cabot Brown, M. D. in his report of November 19, 1959. Dr. Brown was the agreed examiner.

The Answers filed by the various defendants herein are well taken and applicant's Petition for Reconsideration should be denied.

It might further be observed that the opinions of Dr. Hinshaw and Dr. Brown should be good news to the applicant who is working at his old job.


JOHN H. ANKELE, Referee

JHA:rc

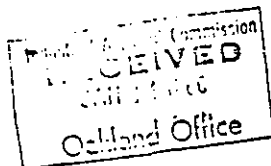
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INDUSTRIAL INDEMNITY COMPANY

San Francisco Division: 350 SANSOME STREET, SAN FRANCISCO 4, CALIFORNIA

Telephone YUkon 8-2000

January 13, 1960



Industrial Accident Commission
577 - 14th Street
Oakland, California

Re: Robert F. Guthbertson vs.
Plant Asbestos Company
Claim No. C59-51-1671
I.A.C. No. OAK 1053

Gentlemen:

Enclosed please find Answer to Petition for Reconsideration
in the above entitled matter.

Copy of the Answer has been forwarded to the parties
listed below.

Very truly yours,

Patrick R. Maloney
Patrick R. Maloney
Claims Attorney

PRM:mac
Encl.

cc: Smith, Parrish, Paduck & Clancy
501 Financial Center Building
Oakland, California

Hanna and Brophy
100 Bush Street
Oakland, California

Mullen & Filippi
315 Montgomery Street
San Francisco, California

State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

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1 PATRICK R. MALONEY
2 Attorney at Law
3 Suite 700
4 350 Sansome Street
5 San Francisco 4
6 Union 6-2000

7 RECEIVED
8 JAN 14 1960
9 Oakland Office

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
JAN 14 1960
Oakland Office

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF
THE STATE OF CALIFORNIA

10 ROBERT F. CUMBERSON,

11 Applicant,

I.A.C. NO. 59 OAK 1053

12 vs.

ANSWER TO PETITION

13 PLANT ASBESTOS COMPANY,
14 INDUSTRIAL INDEMNITY COMPANY, et al,

FOR RECONSIDERATION

15 Defendants.

16 Comes now the Defendant, INDUSTRIAL INDEMNITY COMPANY, and by way of
17 Answer to the Petition for Reconsideration filed herein specifically denies
18 that:

- 19 1. The Commission acted without and in excess of its powers.
- 20 2. That the evidence does not justify the findings of fact.
- 21 3. That the findings of fact do not support the order, decision or
22 award.

23 In his Petition for Reconsideration, the Applicant objected to the
24 finding of fact that he did not sustain an injury arising out of or occurring
25 in the course of his employment. In support of his contention, the Applicant
26 states that Dr. Cabot Brown, the agreed medical examiner, did not obtain inde-
27 pendent pathological studies. The petition is not clear as to what purpose
28 such studies would serve and it may be helpful at this point to clarify the
29 record.

30 First of all, Mr. Schwab, in arranging for the examination by Dr.
31 Brown in his letter of November 12, 1959, authorized Dr. Brown to make use of
32 the service of a Roentgenologist or a pathologist if he deemed it necessary.
33 With the records and information available to Dr. Brown, he quite properly con-
34 cluded that it was not necessary to obtain an additional pathological examina-

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1 tion.

2 A review of the record shows that the applicant's own doctor made
3 use of Dr. David Singman as a pathologist. This doctor performed his studies
4 at the time the applicant was examined on December 8, 1958 at the request of
5 Dr. Crenshaw. Dr. Singman testified that the applicant did have asbestos in
6 the lungs but not enough to show in ordinary X-ray technique.

7 The Defendant's doctor, E. Corvin Hinshaw, M.D., and the Defendant's
8 pathologist, George Watson, M.D. also found asbestos particles in the lungs.
9 The important point here, however, is not the presence of asbestos fibers in
10 the lungs but rather the presence of such fibers as cause disabling pulmonary
11 disease. The Petition for Reconsideration, therefore, is not clear as to what
12 purpose an additional examination will serve inasmuch as there already is an
13 agreement amongst the pathologists that the applicant did have asbestos fibers
14 in the lung.

15 The crux of the problem in this case is whether the Applicant had dis-
16 abling pulmonary disease or asbestosis and not whether there were asbestos
17 fibers in the lung. As pointed out by Dr. Cabot Brown on page 3 of his report
18 of November 19, 1959:

19 "The point I wish to stress is that the mere finding of
20 a few asbestos bodies in a section of lung simply means
21 that the individual has at some time in the past inhaled
22 asbestos particles and does not indicate that this indi-
23 vidual has actual disease (asbestosis). It is not un-
24 likely that a good many people who are required to walk
25 passed large construction jobs a couple of times a day
26 would be found to have inhaled asbestos fibers, were it
27 feasible to subject their lungs to a searching examination.
28 However, the difference between these individuals and those
29 who have well developed clinical asbestosis lies merely in
30 the total amount of exposure. ***"

31 The Applicant's contentions are apparently based upon the testimony
32 of Dr. Crenshaw. Keeping in mind that a clinical diagnosis of asbestosis de-
33 pends upon a history of adequate exposure to asbestos dust, objective evidence
34 of impaired pulmonary function, and radiological appearance consistent with
35 diffuse "ground glass" pulmonary fibrosis, let us examine the testimony of Dr.
36 Crenshaw.

37 According to Dr. Crenshaw, a complete work history was not taken of

1 the Applicant. The doctor testified that he had treated the Applicant's brother
2 approximately five years ago and he felt that a history of asbestos exposure
3 was unnecessary in view of the fact that the doctor had already obtained a work
4 history from the brother. It is to be noted that INDUSTRIAL INDEMNITY COMPANY
5 was the Workmen's Compensation Insurance carrier for PLANT ASBESTOS COMPANY
6 from January 1, 1952 to January 1, 1959. The doctor neglected to even obtain a
7 work history of exposure to asbestos during a substantial portion of the appli-
8 cant's employment with PLANT ASBESTOS COMPANY while INDUSTRIAL INDEMNITY COM-
9 PANY was the carrier.

10 It is further to be noted that the doctor did not even make a study of
11 the type of asbestos material used by the Applicant in his employment with PLANT
12 ASBESTOS COMPANY. It is further to be noted that the doctor testified that this
13 is the third asbestosis case that he has had in his experience. It can be
14 inferred, therefore, that Dr. Crenshaw's diagnosis appears to be speculative
15 and conjectural because he did not take an accurate work history of the Appli-
16 cant's exposure to asbestos and did not take any samples of the material used by
17 the Applicant.

18 It is also clear from the record that the Applicant does not have any
19 objective evidence of impaired pulmonary function, nor is there radiological
20 appearance consistent with pulmonary fibrosis. Dr. Cabot Brown in his report
21 of November 19, 1959 points out that these are essential elements for a clinical
22 diagnosis of asbestosis. In his summary and conclusions on page 2 of his report
23 of November 19, 1959, Dr. Brown points out:

24 "While this man gives a history of exposure to dust
25 containing an undetermined amount of asbestos particles
26 over a period of some twelve years, he has no symptoms
27 or complaints which I would attribute to asbestosis or
28 any other forms of pneumoconiosis. Limited pulmonary
29 function studies gave normal findings, as did physical
30 examination."

31 According to Dr. Crenshaw, the Applicant's doctor, the only factor of
32 disability consists of improper bronchial drainage. There is no testimony by
33 Dr. Crenshaw or any other evidence in the record to indicate that this drainage
34 problem is in any way disabling or that this problem is causing an impairment
35 of pulmonary function.

1 It is also obvious from the record that there is no radiological evi-
2 dence of pulmonary fibrosis. Dr. Singman, the Applicant's pathologist, testi-
3 fied at the hearing that there was asbestos in the lungs according to the sub-
4 mitted samples taken on December 8, 1958 but there was not enough to show in
5 ordinary X-ray technique. The doctor further testified that fibrosis is usually
6 found in asbestosis cases and generally the particles can be seen. He also
7 testified that most of the noxious agents that affect the lung will cause fi-
8 brosis. It is obvious, therefore, that there was no X-ray evidence of disabling
9 pulmonary disease in this case according to the Applicant's own pathologist.
10 Dr. Hinchshaw in his report of September 22, 1959 also concludes that the X-ray
11 examinations demonstrate no progressive pulmonary disease.

12 It is also submitted that there is no showing by the Applicant that
13 the lung biopsy which was performed by Dr. Crenshaw as a diagnostic measure,
14 according to his testimony, was in any way necessary or justified. As pointed
15 out earlier, the record shows that there is no clinical evidence of disabling
16 pulmonary disease present prior to the performing of the operation. Dr. Cren-
17 shaw did not perform pulmonary function tests prior to the operation although
18 such tests were performed post operatively. As pointed out by Dr. Hinchshaw in
19 his report of October 12, 1959:

20 " *** Biopsy served no useful purpose whatever in
21 a situation such as this where there is no clinical,
22 physiological or radiological evidence of disabling
23 pulmonary disease."

24 Dr. Cabot Brown, the agreed medical examiner, also points out on the
25 last page of his report that apparently pulmonary function tests were not per-
26 formed prior to surgery and the doctor cannot understand why the Applicant's
27 doctor belittles the significance of such function tests which are essential to
28 determine the amount of pulmonary disability present.

29 The Applicant has therefore failed to show that the biopsy performed
30 in this case was necessary to cure and relieve from the effects of his injury
31 inasmuch as standard clinical and functional tests were not performed prior to
32 surgery. If such tests were performed, it is obvious that there would be no
33 necessity for the biopsy because the doctor would have found that there was no

1 disabling pulmonary disease present according to clinical tests. In this par-
2 ticular case, the operation has resulted in approximately two months of dis-
3 ability to the Applicant along with an expensive hospital bill. There is an
4 insufficient showing in the record that such major surgery was necessary in order
5 to cure and relieve from the effects of injury.

6 It is also submitted that if the Applicant felt that an independent
7 pathological examination would be helpful in this case, he could have raised
8 this question immediately after the filing of Dr. Brown's report at the Commis-
9 sion and he could have requested to cross-examine the doctor on that point. The
10 report was filed into the record with no objection raised by anybody and now,
11 at this late date, the applicant is attempting to obtain additional delay and
12 time in this case for the obtaining of examinations and reports which could
13 easily have been obtained prior to the submission of the case. As pointed out
14 earlier, it is also not clear from the record what purpose such studies would
15 be inasmuch as studies were conducted by his own doctor and by Defendant's doc-
16 tor and both studies indicated that there were asbestos fibers present in the
17 lung.

18 It is therefore obvious that the Applicant has failed to establish a
19 case inasmuch as there is no showing that the applicant had disabling pulmonary
20 disease or asbestosis. There is also no showing that the major surgery performed
21 upon the Applicant as a diagnostic measure was necessary to cure and relieve
22 from the effects of the alleged injury herein.

23 WHEREIN, INDUSTRIAL INDEMNITY COMPANY contends that the Findings and
24 Award heretofore issued in this matter is proper in all respects, and prays that
25 the Petition for Reconsideration be denied and that said Findings and Award be
26 affirmed.

27
28 Dated: January 13, 1960

29 *Patrick R. Maloney*
30 PATRICK R. MALONEY,
31 Attorney for Defendant
32 INDUSTRIAL INDEMNITY COMPANY

1 State of California
2 City and County of San Francisco } ss.
3
4
5

6 PATRICK R. MALONEY, first being duly sworn, deposes and says:

7 That he is one of the attorneys for Petitioner INDUSTRIAL INDEMNITY
8 COMPANY, one of the defendants herein, and that he is verifying the foregoing
9 Answer to Petition for Reconsideration for said defendant for the reason that
10 he is more familiar with the facts stated therein than are the officers of said
11 defendant and that said facts are within his knowledge; that he has read the
12 foregoing Answer to Petition for Reconsideration and knows the contents thereof
13 and that the same is true of his own knowledge and belief except as to the
14 matters therein stated on information or belief, and as to those matters he
15 believes it to be true.
16
17
18
19
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21
22

Patrick R. Maloney
PATRICK R. MALONEY

23 Subscribed and sworn to before me
24 this 12th day of January 1960. V

25
26 *William M. Mattingly*
NOTARY PUBLIC
27 In and for the City and County of
San Francisco, State of California
28 My Commission Expires December 12, 1961
29
30
31
32

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RECEIVED
JAN 12 1950
Oakland Office

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. 59 OAK 1053

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF INDUSTRIAL ACCIDENTS
FILED
JAN 12 1950
Oakland Office

ROBERT F. CUTHBERTSON,
Applicant,
vs.
PLANT ASBESTOS, et al, and
UNION MUTUAL LIFE INSURANCE
COMPANY, et al,
Defendants.

ANSWER TO PETITION FOR RECON-
SIDERATION

Comes now Pacific Employers Insurance Company, defendant
herein, with its Answer to Petition for Reconsideration in the
above entitled case and in this connection denies:

I

The Commission acted without and in excess of its powers;

II

That the evidence does not justify the Findings of Fact;

III

That the Findings of Fact do not support the Order, De-
cision or Award of your Honorable Commission.

THE PETITION FOR RECONSIDERATION

Applicant petitions for reconsideration notwithstanding
on conflicting medical evidence between the opinions of Drs. H.
Corwin Minshaw and Gerald Greshaw, there was a reference to an
agreed medical examiner, Dr. Cabot Brown, who resolved the conflict
against the applicant.

THE CONTENTIONS OF THE APPLICANT

The applicant was employed as an installer of insulating
materials principally on construction jobs. He claims that he has
worked from 1948 through 1958 which caused a lung condition of
asbestosis.

LEN & FILIPPI
ATTORNEYS AT LAW
SAN FRANCISCO 4

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FACTS

The applicant worked from 1948 through 1958 (and continues to work for that matter) as an installer of insulation materials for various companies. Various insulating materials were used, some consisting of non-asbestos materials such as wool felt, cork, fibre glass. With respect to asbestos materials he used for the most part comprised what is known in the trade as 85% magnesium pipe covering. This material apparently contains from 10% to 15% asbestos fibre.

Mr. Cuthbertson was apparently in good health so far as his chest was concerned until February of 1958 when he had a severe attack of pneumonia which hospitalized him. Although it is not clear, it apparently was about this time or shortly thereafter, that he began to experience pain in his chest and came under the care of Dr. Crenshaw on July 29, 1958. Dr. Crenshaw made a pre-operative diagnosis of asbestosis and then for some unknown reason did major surgery consisting of a right lobectomy in order to biopsy the lung. The slides of the tissue after operation were referred out to Dr. Singman. According to Dr. Singman's testimony, he could find no unusual pathology visible upon examination microscopically. The tissue was referred to the Department of Public Health which reported the presence of asbestos fibre using a certain technique.

Following the chest surgery by Dr. Crenshaw, the applicant's symptoms have not been changed in any manner and remain consisting of some pain in the chest. This has not been particularly disabling and he continues to work in the exact same trade, that is, installing insulation materials--both asbestos and non-asbestos.

The applicant argues that Dr. Crenshaw's opinion should be accepted even though the conflict that has existed has been resolved by the reference to an agreed medical examiner. He attempts to avoid this by saying that it was "the contemplation of the parties

1 that an independent pathological examination was to be had". No-
2 thing was said about an independent pathological study until the
3 Petition for Reconsideration. Mr. Schwab arranged for the examin-
4 ation by Dr. Brown and forwarded all the material to Dr. Brown.
5 While we do not think it of great importance, we believe that the
6 slides of the tissue were forwarded to Dr. Brown and were reviewed
7 by him. At the end of Mr. Schwab's letter to Dr. Brown, the
8 doctor was told "if you desire to use the services of a roentgen-
9 ologist or a pathologist, you are authorized to do so". If
10 Dr. Brown had seen fit to have additional pathological examina-
11 tions, we are sure he would have so arranged. Had applicant been
12 serious about another pathological examination, we are sure that
13 he would then have requested Dr. Brown to have an additional path-
14 ological examination. The pathological opinions of Dr. Singman,
15 to whom the material was referred initially by Dr. Hinshaw, and
16 that of Dr. Watson, are not in conflict. Dr. Watson conceded the
17 presence of asbestos fibres. Neither of the pathologists made a
18 diagnosis of asbestosis.

19 The question here is not whether there was some asbestos
20 fibres in the lung. The real question was whether there had been
21 sufficient exposure to asbestos particles of a size and in suffi-
22 cient concentration to cause the disease of asbestosis and whether
23 the applicant was suffering from the disease of asbestosis.

24 It is noteworthy that Dr. Crenshaw at the hearing of
25 October 22, 1959, could not recall the size and concentration of
26 particles of asbestos which would be disease producing although he
27 claimed that he had known this but was too tired to recall it. The
28 applicant argues in effect that the finding of asbestos in the lungs
29 necessitates the finding of asbestosis.

30 Dr. Brown points out, however, that:

31 "A clinical diagnosis of asbestosis depends on a
32 history of adequate exposure to asbestos dust, ob-
jective evidence of impaired pulmonary function,
and radiological appearance consistent with pro-

1 fuse 'ground glass' pulmonary fibrosis. The find-
2 ing of asbestos bodies in the sputum or by lung
3 biopsy may clinch the diagnosis when these condi-
4 tions are met but the finding of such bodies, per
5 se, would not in itself justify the clinical diag-
6 nosis of asbestosis."

7 Dr. Brown further pointed out that the symptoms the ap-
8 plicant was complaining of were not those usually found in asbes-
9 tosis:

10 "The dominant symptom which causes workers exposed
11 to any dust to seek medical advice is, in my exper-
12 ience, shortness of breath. This is usually associ-
13 ated with some degree of cough, dry or productive,
14 as well as weakness, weight loss, and occasionally
15 clubbing of the fingers. Just pain is not a fre-
16 quent or prominent complaint."

17 Dr. Hinshaw in his report of October 12, 1958, points out
18 that:

19 "It must be emphasized that the presence of these
20 fibres bears no relation to the degree of injury,
21 if any, and that other methods of examination must
22 be relied upon to determine whether significant
23 pulmonary disease is present."

24 "Biopsies serve no useful purpose whatsoever in a
25 situation such as this where there is no clinical,
26 physiological or radiological evidence of dis-
27 abling pulmonary disease."

28 This was very aptly put by Dr. Brown:

29 "The point I wish to stress is that the mere find-
30 ing of a few asbestos fibres in a section of lung
31 simply means that the individual has at some time
32 in the past inhaled asbestos particles and does
33 not indicate that this individual has actual
34 disease (asbestosis)."

35 In the conclusion of the Referee, it is well pointed out
36 that the report of Dr. Brown resolved any apparent medical con-
37 flict existing in the case.

38 WHEREFORE, it is respectfully submitted that the Find-
39 ings and Award and Order are proper in all respects and it is re-

1 requested that your Commission deny reconsideration without further
2 proceedings.

3 Respectfully Submitted:

4 MULLEN & FILIPPI, Attorneys for
5 Pacific Employers Insurance Company.

6 By

John W. Moore
John W. Moore

7 Dated at San Francisco, California, this
8 11th day of January, 1960.

9 Copies this date mailed to:

10 SMITH, PARRISH, PADUCK & CLANCY, Attorneys at Law,
11 501 Financial Center Bldg., Oakland, Calif.
12 HAMNA & BROPHY, Attorneys at Law,
13 1540 San Pablo Ave., Oakland, Calif.
14 INDUSTRIAL INDEMNITY CO.,
15 350 Sansome St., San Francisco, Calif.
16 STATE FUND,
17 450 McAllister St., San Francisco, Calif.
18 PACIFIC EMPLOYERS INS. CO.,
19 244 Pine St., San Francisco, Calif.

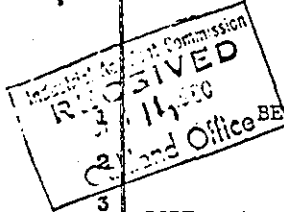
1 STATE OF CALIFORNIA
2 CITY AND COUNTY OF SAN FRANCISCO } ss

3 JOHN W. MOORE, being first duly sworn, deposes and says:
4 That he is an attorney at law, admitted to practice be-
5 fore all Courts of the State of California, and is one of the at-
6 torneys for the defendant, Pacific Employers Insurance Company, in
7 the foregoing proceeding; that the facts therein stated are within
8 the personal knowledge of affiant and he is authorized to make this
9 verification on its behalf; that he has read the Answer to Petition
10 for Reconsideration and knows the contents thereof, and the same is
11 true of his own knowledge except as to matters which are therein
12 stated on his information or belief, and as to those, he believes
13 it to be true.

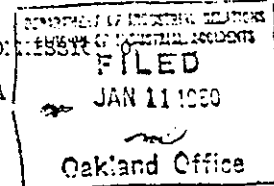
14 *John W. Moore*
15 JOHN W. MOORE

16 Subscribed and sworn to before me
17 this 11th day of January, 1960

18 *Donald A. Nichols*
19 NOTARY PUBLIC in and for the City
20 and County of San Francisco, State
21 of California
22
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BEFORE THE INDUSTRIAL ACCIDENT COMMISSION
STATE OF CALIFORNIA



ROBERT F. CUTHBERTSON,
Applicant,

vs.

No. 59 OAK 1053

PLANT ASBESTOS COMPANY, et al,
Defendants.

ANSWER TO PETITION FOR RECONSIDERATION

Come now the defendants STANDARD ACCIDENT INSURANCE
COMPANY and TRAVELERS INSURANCE COMPANY, answering the Petition
for Reconsideration herein as follows:

The Petition for Reconsideration proceeds upon the same
basic assumption advanced at the time of the hearing; namely,
that the presence of asbestos fibers in a sample of lung tissue
is of itself sufficient to establish the presence of the industrial
disease of asbestosis. That basic assumption has been shown to
be erroneous, in the well considered medical reports of Doctors
H. Corwin Hinshaw and Cabot Brown.

The argument that reconsideration should be granted so
that Dr. Cabot Brown may have an independent pathological study
made is but a red herring drawn across the trail, for the purpose
of confusing the real issues in this case. All that such a
pathological study could demonstrate would be that the tissue
taken from the applicant's lung contains asbestos fibers. The
defendants admit that fact. It has already been abundantly
established through the report of Dr. George A. Watson, which
is quoted in full in the report of Dr. H. Corwin Hinshaw, dated
October 12, 1959.

At the conclusion of the hearing held on October 22,
1959, the referee advised that he wanted the parties to agree

1 upon a medical examiner, and he then entered an order holding the
2 case open 45 days for the filing of the report from the agreed
3 medical examiner. Evan A. Schwab, the attorney for Standard
4 Accident Insurance Company and Travelers Insurance Company,
5 conferred with the attorneys representing the co-defendants, and
6 then submitted to the attorneys for the applicant a list of four
7 names of doctors, any one of which would be acceptable to the
8 defendants as an agreed medical examiner. The name of Dr. Cabot
9 Brown was among the four names submitted. On November 3, 1959,
10 the attorneys for the applicant advised Mr. Schwab that the appli-
11 cant would agree to an examination and report by Dr. Cabot Brown.

12 The arrangements for the examination and report were
13 made by letter sent by Mr. Schwab to Dr. Cabot Brown, dated
14 November 12, 1959. A copy of that letter went to the attorneys
15 for the applicant, and a copy also went to the Industrial Accident
16 Commission. Dr. Cabot Brown was specifically advised:

17 "If you desire to use the services of a roentgenologist
18 or a pathologist, you are authorized to do so."

19 Dr. Brown did not consider it necessary to have any
20 further pathological studies, and the reason why is perfectly
21 clear when one reads his report. In his report of November 19,
22 1959, Dr. Cabot Brown states:

23 "The point I wish to stress is that the mere finding
24 of a few asbestos bodies in a section of lung simply means
25 that the individual has at some time in the past inhaled
26 asbestos particles and does not indicate that this individual
27 has actual disease (asbestosis). It is not unlikely that a
28 good many people who are required to walk passed large
29 construction jobs a couple of times a day would be found to
30 have inhaled asbestos fibers, were it feasible to subject
31 their lungs to a searching examination. However, the
32 difference between these individuals and those who have
33 well developed clinical asbestosis lies merely in the total
34 amount of exposure. The exact size of the particles, their
35 concentration in the inhaled air, and the duration of
36 exposure are all factors in the total quantity of exposure.
37 It is true that the larger the particles and the more
38 concentrated they are in the inhaled air, the less the
39 required exposure time in order to develop the disease.
40 There is, however, no evidence to support the fact that it
41 is impossible for an individual to develop asbestosis from
42 the inhalation of smaller particles in less concentration,
43 provided the total exposure time is adequate.

1 "A clinical diagnosis of asbestosis depends upon a
2 history of adequate exposure to asbestos dust, objective
3 evidence of impaired pulmonary function, and radiological
4 appearance consistent with diffuse 'ground glass' pulmonary
5 fibrosis. The finding of asbestos bodies in the sputum or
6 by lung biopsy may clinch the diagnosis when these conditions
7 are met, but the finding of such bodies per se does not in
8 itself justify the clinical diagnosis of asbestosis."
9 (Emphasis added)

10 In his report of November 19, 1959, Dr. Cabot Brown also
11 said:

12 "I am in complete agreement with Dr. Hinshaw's
13 statement, which you quote."

14 The reference is to the following quotation, taken from the report
15 of Dr. H. Corwin Hinshaw, dated October 12, 1959:

16 "Doctor Watson's findings confirm the patient's statement
17 that he has inhaled asbestos fibers. The inhalation and
18 the deposition of asbestos fibers does not by itself con-
19 stitute evidence of disabling or necessarily significant
20 occupational pulmonary disease. It would be predictable,
21 that any person long engaged in the handling of asbestos
22 materials would collect asbestos fibers in his lungs which
23 would be detected if a sufficient amount of lung tissue
24 were examined. It must be emphasized that the presence
25 of these fibers bears no relation to the degree of injury,
26 if any, and that other methods of examination must be relied
27 upon to determine whether significant pulmonary disease is
28 present. The function of lung biopsy in cases such as this
29 should be to determine the nature of serious injury and dis-
30 ability when such disability has first been demonstrated.
31 Biopsy served no useful purpose whatever in a situation such
32 as this where there is no clinical, physiological or radio-
logical evidence of disabling pulmonary disease."

33 We respectfully submit that the Petition for Reconsider-
34 ation presents nothing that has not been previously exhaustively
35 considered by Dr. Hinshaw, Dr. Brown, and the referee, and that
36 further studies of any type are not required.

37 WHEREFORE, it is respectfully prayed that the Petition
38 for Reconsideration be denied.

39 DATED: January 11, 1960.

40 Respectfully submitted,

41 c.c. Smith, Parrish, Paduck
42 & Clancy
43 c.c. Mullen & Filippi
44 c.c. Standard Acc. Ins. Co.
45 (96-C-960794)
46 c.c. Travelers Ins. Co. (B-8972691)
47 c.c. Industrial Indemnity Co., S.F.
48 c.c. State Fund

49 *Hanna & Brophy*
50 Attorneys for Standard Acc. Ins. Co. and Travelers Insurance Co.

ANNA & BROPHY
10 SAN PABLO AVENUE
LAND IS, CALIFORNIA
TELEPHONE 2-8869

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Not Translated
NO COMMENT

Under penalty of perjury I declare the truth of the following: (a) That the contents of the foregoing document are true and correct of my own knowledge, except as to matters stated therein on information and belief; (b) that the matters so stated are believed by me to be true and correct; and (c) that I make this declaration because the facts set forth in said document are within my knowledge and because as attorney for the answering defendants herein, I am more familiar with such facts than are the officers of said defendants.

Jacques A. Schuch

Dated at Oakland, California,
this 11th day of January, 1960.

Not Translated

Industrial Accident Commission
RECEIVED
JAN 4 1960
Oakland Office

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
FILED
JAN 4 1960
Oakland Office

OF THE STATE OF CALIFORNIA
CLAIM NO. 59 OAK 1053

ROBERT F. CUTHBERTSON,
Applicant,
vs.
PLANT ASBESTOS, et al and
UNION MUTUAL LIFE INSURANCE
COMPANY, et al,
Defendants.

PETITION FOR RECONSIDERATION

Comes now the applicant and petitions your Honorable
Commission for reconsideration in the above case on the following
grounds:

1. The Commission acted without and in excess of its powers.
2. That the evidence does not justify the findings of fact.
3. That the findings of fact do not support the order, decision or award of your Honorable Commission.

Applicant herein objects to the findings of fact that he
did not sustain an injury arising out of or in the course of his
employment:

That his disability was not caused by any injury arising
or in the course of his employment:

And the order that applicant take nothing by reason of
his claim asserted in this proceeding.

A resume of the applicant's testimony indicates he worked
as an asbestos worker doing insulation with asbestos materials
from 1947 through December 1958, the record clearly shows that
asbestos was in the materials used and applicant testified as to
the dusty conditions caused by the materials containing asbestos.

He was having pains in his chest so he saw Dr. Lawrence in

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901 FINANCIAL CENTER BUILDING
OAKLAND 12, CALIFORNIA
GLADENOUR 2-1000

1 1958, and Dr. Lawrence referred him to Dr. Crenshaw, a chest
2 specialist, and the doctor placed him in Richmond Hospital on
3 August 3, 1958, and surgery was performed on his lung at which
4 time Dr. Crenshaw advised him that he had asbestosis which con-
5 dition was caused by his work.

6 Dr. David Singman, defendant's witness who is a pathologist,
7 testified that specimens of the lung were sent to the State
8 Department of Health and are shown by the Referee's memorandum
9 "a quantity of formed asbestos was even demonstrated in the
10 tissue"

11 Further the report from the Department of Public Health
12 dated December 31, 1958, over the signature of William Thielen
13 definitely shows particles of and presence of asbestos in the
14 lung.

15 Your attention is directed to the report namely Dr. George
16 Watson which is set forth in the report of Dr. Otto Shaw, dated
17 October 12th, 1959, where the pathologist states that "asbestos
18 body disposition is moderately advanced."

19 The testimony of Dr. Gerald Crenshaw, chest specialist has
20 been transcribed and your attention is directed to page 1, line 23
21 "Q. And in your report dated May 25, '59, you stated that the
22 studies were made and indicated that there was evidence of asgestos
23 in the chest? A. That is right.

24 Q. Do you have any opinion as to whether that asbestos was causing
25 any disability? A. Yes, I feel definitely it is.

26 Q. And what disability was it causing the man? A. Improper
27 bronchial drainage." . . . Q. And you ultimately did some surgery
28 on the chest? A. Yes, we took a piece of lung as a diagnostic
29 procedure to determine the amount of scarring and fibrosis, and de-
30 termine the presence of the asbestos particles." Further on page
31 22 of the transcript line 3 "Q. And what was your diagnosis,
32 Doctor, immediately after the biopsy was performed?

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1 A. My pre-operative diagnosis based on what the history and
2 based on his working and surrounding environment, was asbestosis.
3 My post-operative diagnosis was the same. Dr. Lawrence Brown
4 helped me with the surgery and collaborated. Q. And this was
5 based upon this history and the symptoms? A. And observation,
6 and feeling, and palpation of the lung, which to me is a most
7 delicate and definite way of telling how badly injured the lung is.
8 We are amazed constantly how little the X-ray shows us, those of
9 us reading X-rays and entering chests. Q. As I recall your testi-
10 mony with respect to X-rays, Doctor, you are not sure that any
11 X-rays were taken at your office before the biopsy? A. None in
12 my office but, of course, I wouldn't go into a chest without having
13 seen the X-rays first. I was being equivocal because I thought
14 you might be hedging on certain dates and certain times and making
15 much of that, and therefore, the X-rays -- " and on line 9 page
16 23, "Q. Did you rule out asbestosis, Doctor? A. We ruled in aste-
17 stosis. Q. By a process of elimination, was it? A. By a patholo-
18 gical examination." again on line 18 page 27, "Q. Is there any
19 evidence that there has been an extension or a change in the fibrous
20 appearance of the lung? A. At surgery there was gross change.
21 Q. Change as compared to what period, Doctor? A. Oh, I can only
22 say, speak of the actual time I saw him when the chest was opened,
23 and I had the lung in my hand. Q. Yes. When you saw it at
24 surgery, were you able to differentiate it whether or not the
25 appearance you saw were not -- could you differentiate between the
26 appearance which you saw between residuals from a chronic pneumon-
27 itis or pneumonia or whether it was due to the presence or absence
28 of asbestos materials, or whether it was due to quartz that may
29 be in the lung? A. We couldn't tell what the substance was that
30 produced it but we could tell there was definite destruction to
31 this man's lungs. Q. So far as -- by your observation at surgery
32 you knew-- A. His lungs were injured. Q. The lung had evidence

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of injury? A. That is right". then again on page 30, line 18
"A. . . . I would deduce from these facts that this man and also
from my clinical and surgical experience that this man has moderately advanced asbestosis."

At this point by way of clarification, I think we should refer to page 25 line 22, "Q. Dr. Crenshaw, how do you define the term 'asbestosis'? A. Asbestosis, clinically, would be impairment of -- particles within the substance of the lung, asbestos particles within the substance of the lung, producing sufficient fibrosis that the functions, and the lung has many functions besides respiration, that the functions of the lung would be impaired.

It is agreed that the medical opinion of Dr. Henshaw is contrary to that of Dr. Crenshaw and it is to be noted that Dr. Cabot Brown, the agreed Medical Examiner agrees with Dr. Henshaw, however, in reviewing Dr. Brown's report it appears that the pathological report and studies would appear to be the important answer to the case at hand.

It is my understanding that Dr. Brown did not obtain independent pathological studies nor did he review the slides as Dr. Brown makes no comment on the pathological findings and report of Dr. George A. Watson, who refers specifically to moderately advanced asbestos deposits. The chest men in this matter have deferred to a certain extent.

Dr. Crenshaw based his opinion upon pathological reports, his treatment of the patient as well as doing surgery on the man's lung and handling and observing the lung and its functions. The insurance company's doctors have based their reports and opinions on the X-rays and pathological reports.

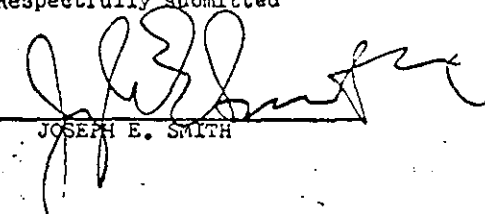
Dr. Brown makes no mention of the pathological reports nor has he had an independent pathological study made. It was within the contemplation of the parties that Dr. Brown would have an independent pathological study made and it is hereby requested that

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1 Dr. Brown have an independent pathological study made to determine
2 the presence of asbestos and whether the asbestos fibres are
3 causing an inflammation or irritation of the lung which can be
4 classified as asbestosis and which is causing the man disability
5 from a pathologists stand point.

6 WHEREFORE, it is prayed that petition for reconsideration
7 be granted.

8 Respectfully submitted

9
10 
11 JOSEPH E. SMITH

12 cc: Hanna & Brophy
13 1540 San Pablo Ave.
Oakland

14 Mullen & Filippi
15 315 Montgomery St.
San Francisco

16 Industrial Indemnity
17 350 Sansome St.
San Francisco

18 State Fund
19 450 McAllister St.
San Francisco

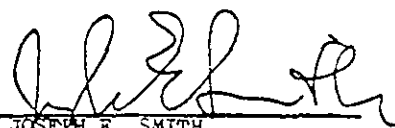
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1 STATE OF CALIFORNIA }
2 COUNTY OF ALAMEDA } ss.

3 JOSEPH E. SMITH, being first duly sworn, deposes and says:

4
5 That he is the attorney for applicant in the foregoing
6 Petition for Reconsideration; that he has read the foregoing
7 Petition for Reconsideration and knows the contents thereof; that
8 the same is true of his own knowledge, except as to those matters
9 stated upon information and belief, and as to those matters he
10 believes same to be true.

11
12 
JOSEPH E. SMITH

13 Subscribed and sworn to before me
14 LILLIAN HARRISON this 4th day of
15 January, 1960.

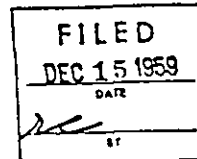
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17 Notary Public in and for the County
18 of Alameda, State of California.
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FILED AND SERVED: 12-15-59
On all parties of
record--R.Crowley

1 BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA
2 CLAIM NO. OAK 1053

3
4 ROBERT F. CUTHBERTSON)
5 Applicant)
6 vs.)
7 PLANT ASBESTOS COMPANY, J. T. THORPE,)
8 WESTERN ASBESTOS COMPANY, ARMSTRONG)
9 CORK, TRAVELERS INSURANCE COMPANY,)
10 INDUSTRIAL INDEMNITY COMPANY,)
11 PACIFIC EMPLOYERS INSURANCE COMPANY,)
12 STANDARD ACCIDENT INSURANCE COMPANY,)
13 and STATE COMPENSATION INSURANCE FUND)
14 Defendants)



FINDINGS AND ORDER

15 The above entitled matter having been regularly submitted
16 before John H. Ankele, Referee, said Referee now makes his decision
17 as follows:

18 FINDINGS OF FACT

19 1. The applicant was employed by the various employers
20 above named from July, 1947 through December, 1958, and alleges
21 that he sustained an injury arising out of and occurring in the
22 course of his said employments, consisting of asbestosis.

23 2. Applicant did not sustain any injury arising out of
24 or occurring in the course of his employments from July, 1947 through
25 December, 1958.

26 3. The disability of which applicant complains was not
27 proximately caused, or caused at all, by any injury arising out of
28 or occurring in the course of his employments, or by his employments.

29 ORDER

30 IT IS HEREBY ORDERED that applicant take nothing by
reason of his claim asserted in this proceeding.

JHA:rs
OAK 1053

John H. Ankele
JOHN H. ANKELE, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

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JOHN H. ANKLE, Referee
Oakland, August 13, 1959

CUTHBERTSON -- 59 OAK 1053
Injury: Asbestosis

REPORT OF REFEREE

The employee, an insulator, born May 4, 1928, claims to have contracted asbestosis as a result of his employment. Nothing has been paid.

ISSUES:

1. Injury.
2. Medical.
3. Statute of limitations.
4. Lack of notice and prejudice.
5. Jurisdiction -- maritime.

APPLICANT testified in substance as follows:

He obtained the employment records from the union and the employers.

In July of 1947 he started to work for the Plant Asbestos Company and worked through January of 1948. The period of employment was about seven months. He worked on ships for this employer, and cork was used for insulation.

He worked for J. T. Thorpe from May to December, 1948, applying asbestos insulation on one job in Tracey and one at Hunter's Point, a power house at PG&E. He cut and fitted asbestos material and used wire and mud in the application. This work went through January of 1949. The places where he worked were enclosed and there would be dust there. Others were on the job.

He then worked for the Western Asbestos Company from January, 1949, to May of 1949. On that job there was also some insulation of asbestos material for PG&E, and also for the Union Oil Company.

Then he worked again for J. T. Thorpe from May 11th through August 10, 1949. This work included Fibreboard Products at Antioch. The work was all in an enclosed area. It was hot and dusty, and there was dust from asbestos material.

From August 11, 1949, through February, 1950, he worked for Plant Asbestos and the work was at Fibreboard Products at Antioch. The work was the same and the conditions the same.

From March 13, 1950, to August 3, 1950, he worked for the Western Asbestos Company on a PG&E power house at Moss Landing. This was the same type of asbestos insulation, and it was in enclosed and dusty places.

On August 20, 1950, to September 3, 1950, he again worked for Plant Asbestos at Galland Laundry. This job was very hot and dusty.

From September 13, 1950, to July 17, 1954, he worked for the Armstrong Cork Company.

There were about nine months at the PG&E plant in Antioch in 1950 and he worked at Travis Air Force Base most of the balance of the time. Also he worked in this period at Regal Pale for two months where they used cork insulation, and there were other smaller jobs during this interval. The PG&E power house job was very hot, and

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Cuthbertson - 2

he worked for Plant Asbestos Company which was all asbestos work at various schools, and he worked continually for Plant Asbestos through December, 1958, except when he was off on account of a leg injury in 1957. The work was all asbestos work, mostly in boiler rooms and close quarters.

He saw Dr. Crenshaw on July 29, 1958, on reference from Dr. Lawrence, his family doctor. He had seen Dr. Lawrence two or three weeks before and he did have pneumonia in February, 1958. He had surgery at Richmond Hospital on August 3, 1958, and he was advised by Dr. Crenshaw following the surgery that his condition was due to his work. He had worked through August 10, 1958, and was off three months, and he returned to work at Plant Asbestos on November 4, 1958.

Before his surgery there were no masks worn on the job. He is doing the same type of insulation work now but wears a mask when on the job, continuously. He has slowed down physically and he hurts all the time.

He did not work on the Burgermeister Brewery for Armstrong but he did work at Napa State Hospital for Armstrong. That was asbestos insulation work and living quarters, all underneath the building. He did not use wool felt there.

He recalls working at the State Employment Building in San Francisco for about a week, insulating the storage tank.

He does not remember doing the job at Borden's Dairy in Oakland but he could have been on that job.

He worked in a radio transmission station between Davis and Winter one day. He did not work on the Camp Beale job. He worked at a refinery in Rodeo two weeks or so in tunnels under the highway, insulating.

The Travis Air Force Base job took nearly two years. There was some wool felt used on that job, but mostly asbestos.

He believes that McKeesby and Madison were the manufacturers of the asbestos pipe covering, and it is known as magnesia pipe covering, eighty-five per cent magnesium. They use some Fibreglass, and up to 1953 or 1954 he does not remember if they used any Johns-Manville products. On heating pipes they generally use asbestos pipe covering.

He has a twin brother named Jack and he worked with his brother at all times, and they were inseparable. He knew his brother had surgery at the hands of Dr. Crenshaw, and he had Dr. Thompson check him after his second operation in 1954. At that time Dr. Thompson had X-rays taken. He did go to Dr. Thompson to see if there was any danger about his having asbestosis. He went two or three times. He is not sure when the second X-rays were taken.

When he had pneumonia he changed to Dr. Brown. When he first saw Dr. Brown he had tightness of the chest and pain. He had X-rays taken at Richmond Hospital at that time for pneumonia. He informed Dr. Brown that his brother had lung trouble but he did not inform Dr. Brown of the previous check-ups he had at the hands of Dr. Thompson.

It was after he got out of the hospital from his own surgery that Dr. Crenshaw told him he had asbestosis.

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Cuthbertson - 3

He informed the Plant Asbestos Company that he was going to the hospital. He believes that Blue Cross paid most of the medical bills and some of Dr. Crenshaw's bill. He paid about \$50. in hospital bills.

He drew unemployment disability benefits at \$50. a week all the time he was off, and he also received \$12. a day for hospitalization.

He knew that his brother Jack had a proceeding before the Industrial Accident Commission.

He understands that diatomaceous earth is the same as asbestos.

When he saw Dr. Thompson for a chest check-up he had no chest pains. At that time he was working for Armstrong Cork. Dr. Thompson told him everything looked all right.

In May or June, 1958, he began having chest complaints. He stopped smoking on the advice of Dr. Crenshaw. He was troubled with shortness of breath last year. He was off a week after he returned to work in November, 1958, and then he was off another week because of his chest.

The eighty-five per cent magnesium pipe covering that they used is manufactured by Pabco. They always use Pabco materials.

He did not lose any time before August of 1958 because of his chest.

He also worked in some old buildings for Plant Asbestos. He did not have pneumonia before February, 1958. He did refuse to work on a job recently because they did not have a blow fan.

He is still under Dr. Crenshaw's care. His present complaints are in effect that: he has slowed down, he has some pain, he cannot sleep as well, and it is hard to work.

He has been a foreman since 1954 on.

J. T. Thorpe was all block work and that ^{was} worse in respect to dust. This was eighty-five per cent magnesium pipe covering. It was made by Pabco.

He has covered all the employers for which he worked but he does not remember all the odd jobs.

He worked along with his brother from 1949 through all of 1950. He does not do home insulation.

Prior to 1947 he was an able-bodied seaman in the Merchant Marine, and he did not have a history of having a lot of colds. He perhaps would get one or two a year. In his bout with pneumonia he was in Richmond Hospital about three weeks and stayed home about six weeks. He felt fairly good after that.

He cannot pinpoint the time when his chest pain developed. It was either in May or June of 1958. He got so bad he saw a doctor in July.

It can be very dusty when they cut asbestos. They cut it on the job as they went along, and the pounding and fitting would always cause dust. ✓

Cuthbertson - 4

OAKLAND
October 22, 1959.

RICHARD E. BEAUDRY, called by the Defendants Travelers Insurance Company and Standard Accident, testified in substance as follows: He is an independent insurance adjuster. He reviewed the job records on which the applicant worked between 1950 and 1954 at the Armstrong Cork office. He worked with J. S. Taylor, the plant manager. A tabulation was made in the home office in response to a letter of August 3, 1959 (Derts. Ex. 5). The information under the column "Materials" was made as the result of his investigation of the obtainable contracts. The percentage in this column "Materials" stated the amount of material used on the job and not their content. The initials MPC stood for magnesium pipe covering; EG for "fibreglass." Where there is a dash in the materials column, the contract could not be found. He made a special study on the job at Travis Air Force Base. These were marked as indicated by the X's. This tabulation supposedly covers all of applicant's employment with Armstrong Cork.

VICTOR SAGUES was called by the Defendants Travelers Insurance Company and Standard Accident, and testified in substance as follows: He is the president of the Sacomo Manufacturing Company. They manufacture pipe insulation, pump packings and the like. He has had 25 years of experience. He started in 1934 with the Plant Rubber & Asbestos Company, and worked with them until April 1, 1948, when their factory was bought by Sacomo Manufacturing Company. They manufacture wool felt insulation. They obtain their materials from other manufacturers. They use crepe wool felt, which is laminated, and then covered by asbestos paper. This is then covered with muslin and the muslin will overlap about one and one-half inches at one end of a 36 inch section. Wool felt is about 30% rag base, and 50 to 60% wood pulp of the kraft stock. Next to the pipe there is a water-proof tarpaulin. The asbestos paper is a six pound asbestos paper, and is filled within the wool felt paper for a three inch thick wall. 13 to 14 layers of wool felt are used. This is the standard wall. They will have smaller and larger walls on the insulation. The asbestos paper is 40 to 50% asbestos fibre. The balance is wood pulp and Kraft stock. There are fillers and sizing to give the stiffness. In the manufacture of air cell insulation, they use a six pound asbestos, which is corrugated, and then four layers are laminated to build up a one inch wall. Adhesive used is silicate of soda, sometimes known as water glass. This is also wrapped with a muslin and put out in 36 inch lengths with an inch and a half muslin overlap. The wool felt insulation is generally used on cold lines. The air cell insulation is used on hot water lines. The insulation material is cut with knives, table saws or hand saws. The joints are probably attached with asbestos cement. He did not know because he does not install any covering. Unibestos is made of amosite asbestos fibre, with bundles of sodium silicate. Amosite is a long asbestos fibre that is mined in South Africa. These fibres are as long as five and six inches. White asbestos or chrysotile is mined in greater abundance in Canada. These fibres are about 3/8ths inches in length. He is familiar with the 85% magnesium pipe covering.

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Cuthbertson - 5

PAUL NIETO, called by Defendant Industrial Indemnity Company, testified in substance as follows: He is vice president of Plant Asbestos. He has been with them for 12 years. He knows Cuthbertson, and has known him for the last six years. He is familiar with the over-all materials used by the company. They use 85% magnesium pipe covering, fibreglass and wool felt. They also use foam glass, cork, and air cell covering. He does not know the breakdown or content of 85% magnesium pipe covering, but there is a certain amount of asbestos material. The asbestos materials would be adhesives and cements. The last two years they primarily would be fibreglass materials. Five or six years ago Cuthbertson worked under his direct supervision. He then had no lung complaints. He had heard that Jack Cuthbertson, the applicant's brother, had lung trouble, and that the applicant was troubled and worried. They do not manufacture the pipe covering but they buy most of it from Pabco. They use 85% magnesium powder cement, which they mixed with water in the work.

GERALD CRENSHAW, M.D., testified in behalf of the applicant in substance as follows: He is duly licensed to practice medicine in the State of California. His specialty is diseases of the chest. Asbestosis caused the applicant's disability as it caused an improper bronchial drainage. A piece of lung taken out at the lobectomy indicated the presence of asbestos fibres. The applicant was still under his care. His various employments were the only places where he could have gotten asbestos in his lungs, and he will need observation for some period of time.

He first saw the applicant July 29, 1958. He never took a complete work history but he had a history of recurrent attacks of pneumonia previously last year. There were X-rays taken in October 1953, November 1954 and March 1956. He can not tell if he had all those X-rays but he attempted to get them. He does not remember if he reviewed the reports at Herrick Hospital. The X-rays taken at the Richmond Hospital on August 15, 1958. A bronchoscopy was made on August 13, 1958. He certainly saw an X-ray report before the operation. The X-rays show an infiltration but they did not demonstrate what the infiltration was. He submitted the lung tissue to the pathologist at the Richmond Hospital and received a report as indicated in the hospital record. A specimen was then sent to the laboratory of the State Department of Health. He never received a written report from the State laboratory but he received an oral report from Dr. Singman, a pathologist.

Dr. Crenshaw was recalled in the afternoon, and testified further in substance as follows: The applicant returned to work roughly two months after the surgery. He generally sees him once a month unless he is suffering from respiratory infection. He must be properly treated. He gives him pressure breathing and antibiotics. Antibiotics were prescribed on February 16, 1959 because there was a respiratory infection and a sore throat. Also treated him February 20, 1959. At that time he felt he was getting over the infection. In June of 1959 he had a 100 degree temperature and further antibiotics were prescribed.

This is the third asbestosis case that he has had in his experience. Other cases were that of applicant's brother and a Mr. Thorsted. Their employment record was similar to that of Cuthbertson, in fact, Cuthbertson's work history was identical.

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Cuthbertson - 6

The biopsy was major surgery, and was diagnostic. He did not feel that fibreglass had a great effect. Recent surgery indicates that it should be avoided. He told the applicant that he had asbestosis right after the surgery. Asbestos within the lung impairs the function of the lung. Elastic fibres of the lung are affected.

DAVID SINGMAN, M.D., called by the Defendant Travelers Insurance and Standard Accident, testified in substance as follows: He is duly licensed to practice medicine in the State of California. His specialty is pathology. He does the pathology at Richmond Hospital. He received the specimen indicated by the hospital report. He does not know the exact number of actual specimens. He submitted specimens to the State Department of Health on December 8, 1958 at the request of Dr. Crenshaw. He brought them up to the Department of Health himself. He also received the report of A.A. Soave, a doctor of veterinary medicine. He was then called to Sacramento, where they had special X-ray diffraction apparatus, and the quantity of formed asbestos was even demonstrated in the tissue, as indicated by the report of the State Department of Health. It follows therefore, that there was asbestos in the lungs but not enough to show in ordinary X-ray technique. He can not tell from the report as to the quantities of materials found. He called Dr. Crenshaw when he received the report, but he can not recall if he sent copies of the state report to Dr. Crenshaw but he usually does.

If Dr. Crenshaw did not get a written copy of the report the fault was that of the witness. He, himself, did not see any abnormality of the bronchii if it is not in his report. Dr. Crenshaw was unhappy with his first pathological report because Dr. Crenshaw had expected to find asbestos, and therefore, suggested that it be sent to the State. Fibrosis is usually found in asbestosis cases as is usual in silicosis cases and generally, the particles can be seen. Most of the noxious agents that affect the lung will cause fibrosis.

ROBERT CUTHBERTSON, recalled, and testified in his own behalf as follows: He did not work at the Pacific Coast Portland Cement plant on May 11, 1952, nor on the Walnut Creek School on June 29, 1952, nor at Camp Beale on May 3, 1953. It was the practice of the company to shift the payroll records to another job when there was a loss on a job from which the payroll report was submitted. He recalls all the jobs in the tabulation except the three he mentioned. He is not a cork man so he does not use too much cork. He believes that he just used cork for about a week in his employment with Armstrong.

DISCUSSION AND DECISION:

On December 3, 1959 the report of Cabot Brown, M. D., the agreed medical examiner, was served and filed.

It would appear that the report of Dr. Brown resolves any apparent medical conflict heretofore existing in this case. Dr. Brown concluded that the applicant does not have asbestosis. Therefore, a denial must issue.


JOHN H. ANKLE, Referee

JHA:afs/ws/rs

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WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB

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Oakland Office
ROBERT N. MAC DONALD
JOHN A. MAC DONALD
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GEORGE W. BONNEY

LAW OFFICES OF
HANNA & BROPHY
1840 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TELEPHONE 2-8560

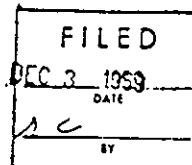
December 3, 1959

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG.
FRESNO 21, CALIF.

SACRAMENTO OFFICE
826 J STREET
SACRAMENTO 14, CALIF.

SAN JOSE OFFICE
1000 HEDDING STREET
SAN JOSE 28, CALIF.



Industrial Accident Commission
577 - 14th Street
Oakland, California

Re: Robert F. Cuthbertson vs.
Plant Asbestos Co., et al
I.A.C. No. 59 OAK 1053

Gentlemen:

We submit herewith the report of Dr. Cabot Brown,
dated November 19, 1959, who made his examination and report
as an agreed medical examiner. Copies of the report are
being served as shown below.

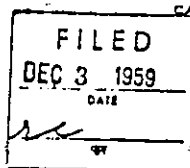
Very truly yours,

Ivan A. Schwab

IAS:ER
Enc.

c.c. Smith, Parrish, Paduck & Clancy
c.c. Industrial Indemnity Co.
c.c. Mullen & Filippi
c.c. State Fund - S.P.

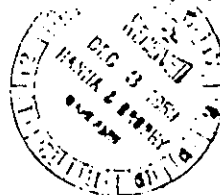
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CAROL BROWN, M.D.
100 BUTTER STREET
SAN FRANCISCO 8

November 19, 1959

Re: Robert F. Cuthbertson vs.
Plant Asbestos Company, et al



Mr. Ivan A. Schwab
Hanna & Brophy
1540 San Pablo Avenue
Oakland 12, California

Dear Mr. Schwab:

Herewith report of my findings in the case of Robert F. Cuthbertson, whom I examined today:

Patient's presenting complaint is chest pain, worse on the left, and unrelated to change of position or deep breathing. It is likewise unrelated to his operation of August 1958 and in fact it antedated the operation by a long time.

It would appear redundant to give you another written report concerning his occupational and clinical history. It is probably sufficient to say that the history obtained by me agreed in every detail with the report of Dr. Hinshaw. This refers to his family, past and personal history, as well as his present complaints. One point worth stressing is his complete freedom from pain and shortness of breath during the two weeks vacation he spent at Lake Almanor, despite the fact that Lake Almanor lies at an elevation of slightly in excess of 4,000 feet, as I recall. One new complaint, which has apparently developed since Dr. Hinshaw's examination, is that of slight productive cough throughout the day. This, together with the greenish morning expectoration, is relieved by various aerosols and ultraviolet light treatments which he has received from time to time from Dr. Crenshaw.

Physical Examination: He is a very well developed and well nourished young man, who gives the impression of being slightly apprehensive, although apparently in good health. Stated age 31. He seems anxious to impress the examiner with his veracity, although he evidently has a poor memory for dates and details. He is 5'8" in height and weighs 182 pounds. Temperature, pulse and respirations normal.

Eyes: Pupils round, regular and equal. React to light and accommodation. Ocular movements normal. Fundi and disks normal.
Nose: Mucosa appears slightly inflamed. There is no nasal obstruction or pus seen.
Ears: Drums appear normal. Left not well seen because of the presence of cerumen in the canal.

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CABOT BROWN, M.D.
480 BUTTER STREET
SAN FRANCISCO 6

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Re: Robert F. Cuthbertson

Throat: Teeth appear in fair condition. Tonsils have been removed.
Mucosa normal.

Neck: Thyroid normal. There is no cervical or other adenopathy.

Chest: Except for the presence of the well-healed right thoracotomy scar, the findings are entirely normal with respect to the heart, lungs and other contents of the thorax. Heart rate is 68, regular. Blood pressure in the right arm is 105/60, in the left arm 108/60. Vital capacity is 3.3 liters and the chest expansion 6 cm.

Fluoroscopic examination shows normal excursion of both diaphragms.

Abdomen, genitals, reflexes, extremities: Not remarkable.

X-rays: Stereo and right lateral chest films on November 19, 1959 show no change from the examination of September 10, 1959. I have nothing to add to the x-ray report of Drs. Hinshaw and Garland on the earlier films.

Summary and Conclusions: While this man gives a history of exposure to dust containing an undetermined amount of asbestos particles over a period of some twelve years, he has no symptoms or complaints which I would attribute to asbestosis or any other form of pneumoconiosis. Limited pulmonary function studies gave normal findings, as did physical examination.

A review of his x-rays taken at intervals from October 1953 shows unchanged and normal findings throughout, except for the appearance of evidence of scarring at the bottom of the right lung since the operation.

To answer your specific numbered questions:

1. I am in complete agreement with Dr. Hinshaw's statement, which you quote.

2. Even a brief review of the medical literature on asbestosis reveals a wide range of disagreement as to the length and concentration of asbestos fibers, as well as the over-all duration of exposure necessary to produce clinically significant disease. One author says that there must be at least fourteen years of exposure to air containing at least five million particles per cubic foot, varying in length from 10 to 250 microns. It is generally agreed that the degree of hazard is a function of the length of the fibers, but the boundary line between long and short fibers is ill-defined.

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CABOT BROWN, M.D.
450 BUTTER STREET
SAN FRANCISCO 8

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Re: Robert F. Cuthbertson

3. I am unable to express an opinion and unwilling even to hazard a guess as to when the fibers which were found in Mr. Cuthbertson's resected lung tissue were actually inhaled. It is my belief, as already expressed, that the symptoms which caused him to consult Dr. Crenshaw in August 1958 were in no sense attributable to the inhalation of asbestos particles.

4. I know of no articles on asbestosis which are concerned with percentages of asbestos in the material to which individuals were exposed. It is however generally conceded that asbestos miners and factory workers engaged in the manufacture of asbestos products have a much higher incidence of asbestosis than do workers who merely handle asbestos products.

This brings us to a general discussion of the disease, as requested by Referee Ankele:

Asbestos is one of a very few substances the inhalation of which produces fibrosis (scarring) in the lungs, which does not contain free silica. The fibrosis is diffuse and relatively homogeneous, although it tends to favor the lower portions of the lungs and, as in the case of any inhaled foreign material, the right lung more than the left. In contrast, silicosis characteristically produces multiple discrete nodular infiltrations. In advanced states these may coalesce so as to form what appears in the x-ray to be large tumor masses. Both conditions tend to produce pleural as well as pulmonary fibrosis.

The dominant symptom which causes workers exposed to any dust to seek medical advice is, in my experience, shortness of breath. This is usually associated with some degree of cough, dry or productive, as well as weakness, weight loss and occasionally clubbing of the fingers. Chest pain is not a frequent or prominent complaint.

The interval between the time the asbestos particles are inhaled and symptoms become manifest is undoubtedly subject to wide variation. Individuals probably have to be exposed for a matter of several years before symptoms develop.

The point I wish to stress is that the mere finding of a few asbestos bodies in a section of lung simply means that the individual has at some time in the past inhaled asbestos particles and does not indicate that this individual has actual disease (asbestosis). It is not unlikely that a good many people who are required to walk passed large construction jobs a couple of times a day would be found to have inhaled asbestos fibers, were it feasible to subject their lungs

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CABOT BROWN, M.D.
450 SUTTER STREET
SAN FRANCISCO 8

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Re: Robert F. Cuthbertson

to a searching examination. However, the difference between these individuals and those who have well developed clinical asbestosis lies merely in the total amount of exposure. The exact size of the particles, their concentration in the inhaled air, and the duration of exposure are all factors in the total quantity of exposure. It is true that the larger the particles and the more concentrated they are in the inhaled air, the less the required exposure time in order to develop the disease. There is, however, no evidence to support the fact that it is impossible for an individual to develop asbestosis from the inhalation of smaller particles in less concentration, provided the total exposure time is adequate.

A clinical diagnosis of asbestosis depends upon a history of adequate exposure to asbestos dust, objective evidence of impaired pulmonary function, and radiological appearance consistent with diffuse "ground glass" pulmonary fibrosis. The finding of asbestos bodies in the sputum or by lung biopsy may clinch the diagnosis when these conditions are met, but the finding of such bodies per se does not in itself justify the clinical diagnosis of asbestosis.

I had already dictated this report when I received notice of the impending arrival of the transcript of the testimony of Dr. Gerald Crenshaw, with the request that I withhold my report until I had read it. This document arrived on November 30. I have read it twice and will state categorically that it has in no way changed my opinion regarding this case. It does, however, raise some interesting points:

1. I am sure that Dr. Crenshaw did not operate on Mr. Cuthbertson in August 1958 on the basis of the latest currently available film, which is dated March 1956. The testimony refers to a report under date of February 21, 1958 of a chest x-ray, quoted in part, "wide spread bilateral infiltration, becoming confluent in the right lower lobe." The fact that this condition cleared up, as shown by the available postoperative x-rays, proves that it could not have been a manifestation of asbestosis. Films must have been taken between February and August 13, 1958 and one wonders why these are not available.

2. A photostat of the preoperative summary dated August 13, under physical findings of the chest, states "diffuse nodulation throughout both lung fields." I am not aware that pulmonary nodulation can be diagnosed by physical examination. It is an x-ray finding common in silicosis and certain inflammatory diseases and virtually unheard of in asbestosis.

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CABOT BROWN, M.D.
460 BUTTER STREET
SAN FRANCISCO 8

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Re: Robert F. Cuthbertson

3. Dr. Crenshaw readily admits that the pulmonary function tests which were performed postoperatively were within normal limits. Apparently there were no such tests performed preoperatively. Just why he tends to belittle the significance of pulmonary function tests I do not know.

4. On page 46 he readily admits, as I have stated above, that the mere presence of asbestos particles is not in itself diagnostic of asbestosis.

Yours very truly,


Cabot Brown, M.D.

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BEFORE THE INDUSTRIAL ACCIDENT COMMISSION
OF THE STATE OF CALIFORNIA

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ROBERT F. CUTHBERTSON,

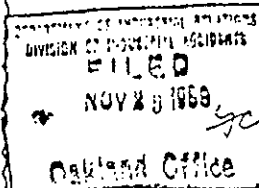
Applicant,

vs.

No. 59 OAK 1053

PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORK, TRAVELERS INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
and STATE COMPENSATION INSURANCE FUND,

Defendants.



PARTIAL TRANSCRIPT OF TESTIMONY before JOHN H. ANKELE,
Referee, at Oakland, California, on October 22, 1959, at
9:00 a.m. Wallace H. Smith, Reporter.

APPEARANCES:

Applicant: Present
SMITH, PARRISH, PADUCK & CLANCY
By JOSEPH E. SMITH, Esq.

Deft. Travelers and Standard Accident: HANNA & BROPHY
By IVAN A. SCHWAB, Esq.

Deft. Ind. Indemnity: PATRICK R. MALONEY, Esq.

Deft. State Fund: JAMES V. BURCHELL, Esq.

Deft. Pacific Employers: MULLEN & FILIPPI
By JOHN MOORE, Esq.

WITNESS:

Gerald L. Crenshaw, M.D.

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1 causing any disability?
2 A Yes, I feel definitely it is.
3 Q And what disability was it causing the man?
4 A Improper bronchial drainage.
5 Q And did you do anything to correct or alleviate that
6 improper -- A Yes.
7 Q (Continuing) -- bronchial drainage?
8 A Since that time we have had to treat him for this per-
9 sistent upper respiratory infections well past the time of
10 a normal individual, and recurrence of such infections
11 productive of cough, pains in the chest --
12 Q And you ultimately did some surgery on the chest?
13 A Yes, we took a piece of lung as a diagnostic procedure
14 to determine the amount of scarring and fibrosis, and deter-
15 mine the presence of the asbestos particles.
16 Q The man is still under your care?
17 A Still under my care, that is right.
18 Q Doctor, if the man gave a history of working in and
19 around asbestos from '47 to '58, sometimes working in
20 materials that had ten to twelve percent asbestos in them, and
21 other times using what we call mud that had ten to twelve
22 per cent asbestos in it, using other materials that may not
23 have had any asbestos but were required to use mud that con-
24 tained asbestos to join them, and that the conditions
25 under which he worked were dusty, do you have an opinion as
26 to whether the asbestos that you found in his lungs could have

1 been contacted over that period of employment?

2 A Yes.

3 MR. SCHWAB: I will object, Mr. Referee, as not a proper
4 hypothetical question in that it does not include all factor
5 necessary to express an opinion such as the nature of the
6 material, the finished material with which the man works,
7 and what he did with it. After all a truck driver works
8 around the asbestos if he delivers it on the job.

9 REFEREE: It is defective in that respect, Mr. Smith.
10 I will let it stand, however, and it will go to the weight.

11 MR. MOORE: I will make the additional objection as
12 calling for surmise and speculation.

13 REFEREE: That goes to the weight.

14 MR. SMITH: Q You say you have an opinion: what is
15 it, Doctor?

16 A I feel it has. It's the only source of asbestos that
17 this man could have, where he could have gotten it, and he
18 has it present in his lungs at the present time; that's
19 to my knowledge.

20 Q Does the man still need treatment and observation?

21 A He will need observation for some period of time,
22 that is right.

23 MR. SMITH: I have no further questions.

24 REFEREE: Mr. Schwab.

25 MR. SCHWAB: Q Doctor, when did you first see Mr.
26 Cuthbertson?

A May I check my chart, please?

1 Q Yes. A July 29, 1958.
2 Q You had treated his twin brother in 1953, I believe.
3 A Yeah, his brother is not an identical twin; they're
4 just twins.
5 Q No, but you had not seen Robert Cuthbertson during
6 the time that the brother was under your care in 1953 and
7 '54?
8 A To my knowledge or record I had heard of him but I had
9 not seen him.
10 Q And do you have with you the history that was taken on
11 the occasion of that first call in '58? A I have.
12 Q May I look at it.
13 (Document handed to Mr. Schwab.)
14 A In fact, Mr. Robert Cuthbertson was referred to me by
15 Dr. Larry Brown because of recurrent pneumoninities and
16 recurrent chest difficulties.
17 REPORTER: Doctor who?
18 A Lawrence Brown of Richmond, California.
19 MR. SCHWAB: Q When he came to you on July 29, 1958,
20 no work history was taken at that time?
21 A I do not believe we have a work history taken from Mr.
22 Cuthbertson at all.
23 Q You never took a work history?
24 A I don't think so.
25 Q And you did, though, at the time of that first call have
26 a history of there having been an attack of pneumonia in

1 the earlier part of the year?

2 A Yeah, recurrent attacks of pneumonia.

3 Q That's right. Now, when was it that you performed your
4 biopsy? A August 13, 1958.

5 Q And prior to that time had you obtained X-rays taken
6 for Dr. A. R. Thompson at Herrick Hospital in October 1953,
7 November 1954 and March 1956?

8 A All attempts were made to get old X-rays possible.

9 REFEREE: Will you answer the question, Doctor?

10 A Well, I don't have -- I don't have it.

11 REFEREE: The question is, Did you?

12 A I made attempts to get them. I can't answer.

13 REFEREE: Read the question and let's have an answer.

14 (Question read.)

15 A Again I can only answer it I do not have the X-rays
16 present and I can't tell whether I have them or had them. I
17 made attempts to get them.

18 MR. SCHWAB: Q What attempts did you make?

19 A Contacted the doctor and contacted the hospital.

20 Q Did you go out to Herrick and review the radiologist's
21 reports on any films there?

22 A I don't remember that I did.

23 Q Do you mean by that that as far as you can recall you
24 did not?

25 A I did not as far as I can recall it now.

26 Q Now, before you did this biopsy, did you have X-rays

1 taken?

2 A Mr. Referee, I don't have the X-rays present and I can't
3 be specific as to which X-rays were taken.

4 REFEREE: The question is, Did you take X-rays.

5 MR. SCHWAB: You can refer to your file.

6 A There is no record of X-rays taken in my place.

7 MR. SCHWAB: May I see the Richmond records, the
8 earlier one?

9 (Documents handed to Mr. Schwab.)

10 MR. SCHWAB: Q In the Richmond Hospital record there is
11 a report of roentgen examination by Dr. Lloyd E. Smith, of
12 films taken on August 15, 1958, at your direction.

13 A Uh huh (yes).

14 Q Are those the first films that were taken under your
15 direction?

16 A Yes. Attempts were made by associate Dr. Eldred, who
17 was my associate at that time, to obtain the Herrick films
18 on September 2, 1958.

19 Q September?

20 A No, beg your pardon. This is my error. He was awaiting the
21 report on the one specimen. We had --

22 Q You had no films taken until two days after you did the
23 biopsy?

24 A Yes, I had the advantage of films prior to that, however,
25 X-rays taken --

26 Q Which ones?



1 A They must have been the Richmond X-rays or the --
2 Q You mean the ones taken -- A Prior.
3 Q When he was in there for pneumonia in February?
4 A Sure.
5 Q I found in those records first a report of films on
6 February 21, 1958 (handing document to witness). Do you
7 recall whether you had seen that report before your operation?
8 A I saw the X-rays and undoubtedly the reports before my
9 operation.
10 Q Are the findings reported there typical of a pneumonia?
11 A They're more than typical of pneumonia. They're also
12 typical of a diffuse -- let me see where it stated --
13 "Widespread bilateral infiltration, becoming confluent
14 in the right lower lobe."
15 Does that answer your question?
16 Q Well, by infiltration, you don't know what infiltration?
17 A No. No.
18 Q From this? A From your X-ray you could not tell.
19 Q Yes. Now, in your report you -- strike that. After
20 the operation you submitted your specimen to the pathologist?
21 A Pathologist at Richmond Hospital, that's right.
22 Q At Richmond Hospital, and that's Dr. --
23 A Singman.
24 Q -- Singman. A That is right.
25 Q And did he submit to you his written report?
26 A He did.

1 Q And is that one in which he gives the diagnosis:
2 chronic fibrosing pleuritis and chronic fibrous pneumonitis?
3 A That is right.
4 Q Now, in your report of May 25, 1959, you say the speci-
5 mens of lung tissue were sent to the Health Department for
6 study. A By Dr. Singman.
7 Q Well, do you mean by Health Department --
8 A Dr. Singman sent them to a laboratory for examination,
9 and he reported to me they were sent to the Health Department.
10 Q Did he say whether he meant a City Health Department,
11 a County Health Department or what?
12 A I have a report here from those people.
13 Q All right, fine.
14 (Witness handed document to Mr. Schwab.)
15 REFEREE: We have two minutes remaining this morning.
16 MR. SCHWAB: Q As I interpret this sheet you have shown
17 me, this is a sheet that was prepared in submitting the
18 specimen? A That is right.
19 Q Did you ever get a reply?
20 A I have no other records than this.
21 MR. BURCHELL: May I see it, please.
22 (Document handed to Mr. Burchell.)
23 MR. SCHWAB: Q Well, Doctor, this sheet that you sent
24 me contains, the only doctor's name it has is your own. Is
25 this a sheet prepared in your office?
26 A No, this is a sheet prepared by Dr. Singman, and sent

1 with a specimen to the laboratory.

2 Q And did he send you a copy?

3 A I have no copy.

4 Q Well, where did you get this?

5 A This is a copy he sent to me showing that he had
6 forwarded the specimen.

7 Q I see. Well, isn't it customary to include in the sheet a
8 statement of the laboratory work done by Dr. Singman?

9 A You mean he was forwarding this specimen on to, for
10 further study, and this is merely a sheet. You asked me
11 where the specimen was sent, and there was some question
12 as to which health department had done it. This is the
13 answer to that question. It was forwarded on to the
14 authority who could determine whether asbestos was present
15 in the specimen or not.

16 Q You never got any report then from the State Department
17 of Health?

18 A I have no report, no such report.

19 Q You have never checked with the State Department of Health
20 to see whether in fact it ever did any laboratory work?

21 A No, but I have checked with Dr. Singman.

22 MR. BURCHELL: Q Is that Dr. Singman?

23 A David Singman, S-i-n-g-m-a-n, the hospital pathologist
24 at Richmond Hospital and Alta Bates Hospital.

25 MR. SCHWAB: Q Did Dr. Singman ever give you any
26 written report following the report in the Richmond Hospital

1 records?

2 A He gave me an oral report.

3 Q And I believe that data sheet indicates a submission on
4 November 18th, is it?

5 A 11-17-58.

6 REFEREE: Any further questions of this witness?

7 MR. SCHWAB: Yes.

8 REFEREE: Just a minute.

9 MR. SCHWAB: You said --

10 REFEREE: Just a moment. It's 12:00 o'clock. Continued
11 to 1:30.

12 MR. SMITH: Your Honor, I believe Dr. Crenshaw has a
13 surgery scheduled at 12:30 for a cancer, and feels that he
14 is unable to be here at 1:30; he can't be here. He can come
15 later.

16 REFEREE: All right, wasn't this the case that Dr.
17 Crenshaw was supposed to be here in August?

18 MR. SMITH: That's correct, sir.

19 REFEREE: He had an emergency then. He can be excused
20 once but not twice.

21 MR. SMITH: Well, sometimes emergency cancers arise.

22 Q Is this surgery one that is just has to be done?

23 A A proven carcinoma, a proven cancer.

24 REFEREE: You see the point here, this was set before
25 and then he had an emergency.

26 MR. SMITH: Yes.

1 REFEREE: -- at that time, and this morning we waited
2 for him.

3 MR. SMITH: Yes. I can appreciate that, your Honor.

4 REFEREE: And wasted the time of all these attorneys
5 who came here. Understand, other people's time is valuable
6 besides doctors. The case is continued to 1:30.

7 MR. SMITH: Will you be able or unable to be here,
8 Doctor?

9 A Who will pay the mal practice?

10 REFEREE: When will you be through?

11 A It will take three hours to do this.

12 REFEREE: You knew you were going to be here for a
13 hearing today, you know.

14 A I was scheduled at 4:00 o'clock today.

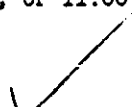
15 REFEREE: You weren't scheduled as far as I was concerned
16 at 4:00 o'clock.

17 A That was the information I received, 4:00 o'clock today.

18 REFEREE: When did you notify the doctor of this hearing
19 today, Mr. Smith?

20 MR. SMITH: Our records show that he was advised of a
21 hearing date. No time was specifically set. Thursday
22 and Friday I went out of town and advised my girl to call
23 the doctor and to ask him to be here at 10:00, 9:00 or
24 10:00 in the morning, wasn't sure on the time, or 11:00
25 o'clock at the latest.

26 REFEREE: When was that, last Friday?



1 MR. SMITH: Yes, last Friday.

2 REFEREE: And Doctor, I suppose you had your surgery
3 scheduled already?

4 A Yes, that's right.

5 REFEREE: You note that notice of this hearing was sent
6 out on the 27th of August, Mr. Smith. All right, recess un-
7 til 1:30.

8 (Thereupon an adjournment was taken to 1:30 o'clock p.m.
9 this date, Thursday, October 22, 1959.)

10 ---oOo---

GERALD CRENSHAW, M. D.,

recalled as a witness on behalf of the applicant, having
been previously sworn, testified further as follows:

REFEREE: All right, Doctor. Had you finished, Mr.
Schwab?

MR. SCHWAB: No, I just have a few more questions about
the nature of the treatment.

REFEREE: All right.

MR. SCHWAB: Q Doctor, after the operation had been
performed, when did you discharge Mr. Cuthbertson to return
to work?

A May I check my chart here? Now, let's see, he returned
to work -- what date is the date of the surgery?

Q August 13th.

A August. Roughly, within a matter of two months.

Q And then do you have your chart showing treatment sub-
sequent to that time? A Yes, oh, yes.

Q When did you next see him after the return to work?

A I have been seeing him routinely. I saw him October
27th, October 30, November 28, December 12, 1958.

REFEREE: Q At what intervals, Doctor?

A Pardon?

Q At what intervals after surgery?

A Depending upon his general condition, usually once a
month or if he has a respiratory infection, then once a week.

MR. SCHWAB: Q Well, when is the first date after the

1 return to work that he had any complaints that required
2 treatment?

3 A Let's see if I can get my dates straightened out here.
4 Well, he goes from November 28th, December 12th, then to
5 January 10th, of 1959 -- 1958, then 1959, some during
6 February --

7 Q Now, just a minute. On those first three dates did
8 you examine only or did you treat?

9 A Oh, treated. He has had treatments at that time.

10 Q All right, give me the first date and what office history
11 you took at that time.

12 A It was February 9th, patient complaining of pain in
13 left chest. X-rays of the chest: rales present in the
14 left upper lobe -- beg your pardon.

15 Q 2-9-59?

16 A That would be 2-9-59, is the note. Dr. Eldred saw
17 him September the 29th. States good rehabilitation of chest,
18 and -- well, you got me. Then X-rays were taken p.m. right
19 lateral at that time.

20 REFEREE: Q That's '58 now?

21 A That's September 29, '58. We wanted to know what we
22 were doing.

23 MR. SCHWAB: All right.

24 A October 30, 1958 --

25 Q Wait just one minute, Doctor. Let's take each one at
26 a time. A Uh huh (yes).

1 Q Dr. Eldredge. A Eldred.
2 Q Eldred. That's your office associate, is it?
3 A Yes, was. He is now in practice by himself.
4 Q I see. And his note, Doctor, is that the man was
5 getting a good result?
6 A No, no. Good rehabilitation of chest.
7 Q Yes. A And another word here which I can't read.
8 Q All right. And --
9 A X-rays were taken at that time.
10 Q The only thing the doctor did was to take some X-rays?
11 A Examined him.
12 Q Yes. But I mean he didn't prescribe any medication?
13 A Well, I can not tell because the medication is not put
14 in the chart.
15 Q All right. When is the first date after that that you
16 saw him?
17 A It's on October 30th, and the reason I didn't see him
18 at this time was I was on a lecture tour through Japan, and
19 through the Far East.
20 Q You mean you called him so you could? A Oh, no.
21 Oh, no, this man was in association with me.
22 Q I see. You had come back at that time?
23 A I came back in October.
24 Q All right. Now, what note did you put in your file
25 at that time?
26 A I was waiting the pathological report.

1 Q And then when did you next see him?
2 A January the 10th. Report states patient has asbestosis.
3 Q That's the verbal report you got from Dr. Singan?
4 A Verbal report, that is right.
5 Q Well, then -- A February 9th.
6 Q Pardon me. That was January, what date? I didn't get
7 that. A January 10th.
8 Q And up to January 10th, 1959, you hadn't given him any
9 treatment for -- A Oh, yes.
10 Q For any respiratory infections?
11 A We were treating him to rehabilitate him as far as
12 the motion of his chest was concerned and that went along
13 right straight up until -- that was before, actually before
14 the surgery -- wait a minute, something is wrong. Oh, I
15 was going the wrong way. My error. That was after the
16 surgery.
17 Q What treatment were you giving him?
18 A We were giving him intermittent positive (pressure
19 breathing and occasional antibiotics.
20 Q Did you prescribe an antibiotic?
21 A February 16th we gave him cerocillin and streptomycin.
22 Q On what date?? A February the 16th.
23 Q Of '59? A '59.
24 Q And that's the first time that you have a record of
25 prescribing antibiotics?
26 A He had intermittent positive pressure breathing right

1 along. Yes, that's the first time following the surgery.
2 Q And what complaints did Mr. Cuthbertson make to you
3 on February 16th?
4 A He had a respiratory infection and a sore throat.
5 Q The soreness was in the throat? A At that time.
6 Q All right. Had any --
7 A His chest -- pardon?
8 Q At any later date was there a prescription of medication?
9 A Well, he received a series of one, two, at that time
10 and I checked him February 20th, and felt that he was
11 getting over his respiratory infection. On March the 29th,
12 he had periodic treatments and March the 6th, patient was
13 still having pain in left side and was worried about it.
14 May the 9th he had some antibiotics. March 13th -- March
15 9th, patient coughed up greenish material, and was put
16 on albumycin and other antibiotics.
17 Q Are those March or May?
18 A This is May. May 9th.
19 Q May 9th.
20 A Yes, he had antibiotics in March; again May 9th he
21 had antibiotics. That was May 9th. May 11th, I saw him
22 and he was improved and stopped the antibiotics.
23 He had repeated intermittent positive pressure breathing
24 to improve his bronchial drainage at that time, periodically
25 during this time. On June the 11th, 1959, the patient
26 still having sputum but it was clear. June the 8th, 1959,

1 patient had a temperature of 100.2. Was put on antibiotics.

2 Q Well, on those visits in June, what complaints did he
3 make to you?

4 A Chest pains, sore throat, fever, but no pneumonitis.
5 I am very sure there would have been if it had not been
6 controlled.

7 MR. SCHWAB: I haven't any further questions.

8 REFEREE: Mr. Maloney.

9 MR. MALONEY: Q Doctor, have you observed any other
10 cases of asbestosis during your practice?

11 A Oh, many cases. This is the third in a series asso-
12 ciated with the same type work and the same situation.

13 Q By same type work, what are you referring to, Doctor?

14 A Installation of asbestos materials.

15 Q I see. And you observed three cases of similar nature?

16 A I did.

17 Q Would one have been Mr. Cuthbertson's brother?

18 A That is right.

19 Q And would the other one be Mr. Thorsted?

20 A That is right.

21 Q As I recall your testimony, Doctor, you did not take an
22 occupational history when you first examined Mr. Cuthbertson?

23 A No, on Mr. -- on Mr. Cuthbertson's brother we had an
24 occupational history. We felt it was not necessary to go
25 into detail as they worked jointly together in the same
26 situation.

1 Q So you referred to his brother's history at the time?
2 A That's right.
3 Q Doctor, before performing the biopsy, did you take
4 any laboratory procedures?
5 A Routine laboratory work was done, of course, in the
6 hospital on admission and I am very sure --
7 Q Well, that would be at the Richmond Hospital?
8 A At the Richmond Hospital, and all those reports were
9 here, blood typing, and of course, we always check for
10 tuberculosis and cancer, and diseases of this type. Those
11 reports are here. He was bronchoscoped. No tuberculosis;
12 no malignant cells found.
13 Q Were any sputum tests made?
14 A Yes, actually, there was more accurate washings, in
15 which we got the flow of, or the bacteria of his respira-
16 tory tract.
17 Q What was the result of the bronchitest?
18 A Actually cultured for fungi and we cultured for
19 tubercle bacilli, which were negative, and if you would like
20 the various organisms that are present, their sensitivity,
21 they're right here on this piece of paper if you wish.
22 Q Let's see.
23 (Document handed to Mr. Maloney.)
24 Q You say that bronchial tests were negative, Doctor?
25 A For tumor.
26 Q For tumor.

1 A For cancer, that's right, and also for the tuberculosis.
2 Q I see. Were any other conditions, Doctor --
3 A What?
4 Q Possibly asthma?
5 A We checked for allergy routinely. Charcot-Leyden
6 crystals and eosinophils, which designate allergy, were
7 checked for as well.
8 Q Were any blood tests also conducted?
9 A Routine blood count and urine.
10 Q And what were the results of these tests?
11 A I must get my glasses back on. I still have them
12 fogged. His -- he was running a 12,000 white count on
13 admission to surgery and, but had 97% hemoglobin, and
14 the polys. were fairly normal. Monocytes and leucocytes
15 were within normal distribution. He was a Type O. Rh
16 negative as far as blood typing was concerned. His urine
17 test was essentially negative.
18 Q Doctor, after running these clinical tests, you mentioned,
19 was there any clinical evidence of disabling pulmonary
20 disease present as the result of these tests?
21 A Not of these tests. These tests are non-specific tests.
22 Q And did you take any pulmonary function tests before the
23 biopsy?
24 A Not before. I have some after; following it, but I
25 did not take any before because I feel they are not --
26 as I have expressed myself in the other cases, I feel the

1 web is too wide. There are too many loopholes in them,
2 and as far as function tests are concerned, I do not feel
3 we can rely upon them, and I think that's the universal feel-
4 ing of practically all surgeons, and I have talked to many
5 of them throughout the country, and throughout the world.
6 I take them mainly because they seem to be faddish, and we
7 are in that phase at the present time.

8 Q Now, you performed a biopsy on August 13, 1958?

9 A I have a surgical report here if you wish.

10 Q Doctor, what was the purpose of performing the biopsy?

11 A To find out what this man's disease actually was,
12 and I was very suspicious. It was a diagnostic procedure
13 and also rules out pneumonitis of this type, to rule out
14 a malignancy or a fungus infection or something of that
15 sort.

16 Q And this is a surgical procedure, is it not, Doctor?

17 A That is right, an accepted surgical procedure.

18 Q Surgical procedure. This usually results in some
19 disability?

20 A Some disability, but temporary disability; not permanent,
21 of course.

22 Q I see. How long is the man generally disabled when you
23 do this procedure?

24 A That depends entirely on the individual but usually two
25 months or more.

26 Q Is this considered major surgery?

1 A Opening -- by definition opening up a cavity within a
2 body is major surgery.

3 Q And what was your diagnosis, Doctor, immediately after
4 the biopsy was performed?

5 A My pre-operative diagnosis based on what the history and
6 based on his working and surrounding environment, was
7 asbestosis. My post-operative diagnosis was the same.
8 Dr. Lawrence Brown helped me with the surgery and col-
9 laborated.

10 Q And this was based upon the history and the symptoms?

11 A And observation, and feeling, and palpation of the lung.
12 which to me is a most delicate and definite way of telling
13 how badly injured the lung is. We are amazed constantly
14 how little the X-ray shows us, those of us reading X-rays
15 and entering chests.

16 Q As I recall your testimony with respect to X-rays,
17 Doctor, you are not sure that any X-rays were taken at
18 your office before the biopsy?

19 A None in my office but, of course, I wouldn't go into
20 a chest without having seen the X-rays first. I was being
21 equivocal because I thought you might be hedging on certain
22 dates and certain times and making much of that, and there-
23 fore, the X-rays --

24 REFERENCE: Doctor, you just answer questions. Don't
25 assume if they're hypercritical or not.

26 A All right, sir. But the X-rays not being present, I

1 was being equivocal.

2 MR. MALONEY: Q Did you ever review any of the ma-
3 terials used by Mr. Cuthbertson in his employment?

4 A I do not believe I have.

5 Q Could Mr. Cuthbertson's symptoms have been produced by
6 other causes such as cancer, tuberculosis --

7 A His symptoms could have been, yes, that's right, but
8 we ruled those out.

9 Q Did you rule out asbestosis, Doctor?

10 A We ruled in asbestosis.

11 Q By a process of elimination, was it?

12 A By a pathological examination.

13 Q This was the examination you testified to earlier, was
14 it not? A Gross and microscopic.

15 Q And the oral report was submitted to you by --

16 A That's right.

17 Q -- Dr. Singman. Doctor, would the inhalation of dust
18 or particles from foam glass, materials have any effect
19 upon the condition that you diagnosed?

20 A Foam glass?

21 Q Yes. A Foam glass. You mean fiber glass?

22 Q Foam glass. A I am not familiar with it.

23 Q I see. Are you familiar with fiber glass materials?

24 A Yes, somewhat.

25 Q Would this material have any effect upon --

26 A The feeling at the present time is that it doesn't have

1 a great deal, although in the more recent literature it
2 warns you against inhaling it in any quantity and that's
3 experimental work done on animals.
4 Q Did you ever tell Mr. Cuthbertson that he had ^{an} asbestosis
5 condition?
6 A In my clinical opinion he has it, and I told him so.
7 Q When was this, Doctor?
8 A Immediately following his surgery.
9 Q In August of --
10 A Well, right after his surgery. As soon as I had a
11 definite report.
12 Q Did you also tell him that this condition may be related
13 to his occupation?
14 A I don't believe I had to do that.
15 Q Were you paid for your services in connection with the
16 operation, Doctor?
17 A That I can not answer. My bookkeeper handles that, and
18 I do not have the records present.
19 Q When did you last treat Mr. Cuthbertson, Doctor?
20 A He was in my office on October 12, 1959, for pulmonary
21 function studies.
22 Q And what were the results of these studies, Doctor?
23 A They're within fairly normal limits as far as pulmonary
24 function studies are concerned.
25 Q Do you have any recommendations for future treatment?
26 A Yes, complete observation, especially protection from

1 further inhalation of these agents that are causing trouble
2 in his lungs, complete protection. I do not feel he need
3 leave his chosen occupation but he certainly should be
4 protected against further damage and observation because I
5 don't believe any of us know once the fibrosis starts in a
6 man's lung how far it's going to go, and that's the usual
7 story of asbestosis and silicosis.

8 Q You say there was a fibrosis condition present?

9 A Reported by the pathologist and definitely grossly.

10 Q By the pathologist, Doctor?

11 A And definitely grossly at the time of surgery.

12 Q Doctor, you also mentioned this greenish material that
13 Mr. Cuthbertson coughed up, you mentioned one day of May
14 9, 1959, do you recall when he first mentioned the material?

15 A I have it recorded. That means an infection in his
16 bronchial tree. That means sputum. Coughed up greenish.
17 material May 9, 1959.

18 Q I see. Is asbestosis a common disease?

19 A No, I would say it's not common.

20 MR. MALONEY: I have no further questions.

21 REFEREE: Mr. Burchell.

22 MR. BURCHELL: Q Dr. Crenshaw, how do you define the
23 term "asbestosis"?

24 A Asbestosis, clinically, would be impairment of --
25 particles within the substance of the lung, asbestos
26 particles within the substance of the lung, producing ✓

1 sufficient fibrosis that the functions, and the lung has
2 many functions besides respiration, that the functions of
3 the lung would be impaired.

4 Q Are you familiar with the fact that so far as the
5 pathological investigation has been determined there is
6 no interference with the bronchii or bronchioles of the lung?

7 A I don't agree with that. That's the microscopic
8 and I am basing mine on what I saw.

9 Q If this is a fact, the microscopic analysis, or is it
10 a fact that there is no interference with the bronchii or
11 bronchiole, then do you have to conclude that there is no
12 asbestosis?

13 A Oh, no, I don't accept that in the first place.

14 REFEREE: You don't accept what?

15 A That there is no interference in the bronchii and
16 bronchioles.

17 REFEREE: They're asking you what the answer is if you
18 do accept it.

19 A I didn't.

20 MR. BURCHELL: Q Well, assuming that they're normal.

21 REFEREE: Assuming there is no effect.

22 A No, that doesn't necessarily -- it's true because one
23 of the most important functions or factors of the lungs
24 is exhalation in the lung as well as others. There are
25 about twenty different functions of the lungs and the
26 elastic fibres are probably more important in this regard

1 than the actual conductive system in other disease in
2 which the elastic processes are interfered with by any
3 scarring or sclerosing substance. You may have normal
4 appearing bronchii and bronchioles and have a non-
5 functioning lung, and that being true in emphysema, for
6 instance, before it gets into the cotton candy lung.
7 Elastic fibres are extremely important in function.

8 MR. BURCHELL: Q You feel that asbestosis in this
9 situation affects the elastic fibres of the lung?

10 A It affects their function; the fibrosing elements
11 would affect their function.

12 Q Now, do you have any evidence in your record that the
13 elastic fibres' function have been affected by the findings
14 that you have made or other people have made in this case?

15 A I do not think so.

16 Q Pardon me?

17 A I have no record of it, no.

18 Q Is there any evidence that there has been an extension
19 or a change in the fibrous appearance of the lung?

20 A At surgery there was gross change.

21 Q Change as compared to what period, Doctor?

22 A Oh, I can only say, speak of the actual time I saw him
23 when the chest was opened, and I had the lung in my hand.

24 Q Yes. When you saw it at surgery, were you able to
25 differentiate it whether or not the appearance you saw were
26 not -- could you differentiate between the appearance which

1 you saw between residuals from a chronic pneumonitis or
2 pneumonia or whether it was due to the presence or absence
3 of asbestos materials, or whether it was due to quartz
4 that may be in the lung?

5 A We couldn't tell what the substance was that produced
6 it but we could tell there was definite destruction to
7 this man's lungs.

8 Q So far as -- by your observation at surgery you knew --

9 A His lungs were injured.

10 Q The lung had evidence of some injury?

11 A That is right.

12 Q Would your opinion be any different today if you knew
13 there had been some disposition of quartz within the pleura
14 of the lung?

15 A What do you mean by quartz?

16 Q Well, let's say -- I mean what the Public Health
17 Department means by quartz.

18 REFEREE: Quartz. You know what quartz is.

19 A Silica. Is that what you are getting at? I mean,
20 there are inert substances that don't cause any trouble
21 at all and certain things that cause a great deal of
22 trouble -- silica?

23 MR. BURCHELL: Quartz.

24 REFEREE: Quartz. You know what quartz is, Doctor.

25 A I am still trying to get your definition of what you
26 mean by quartz.

1 REFEREE: The dictionary definition of quartz.
2 A Would you state your question again to me, please?
3 MR. BURCHELL: Yes.
4 Q Would your opinion be any different today if you knew
5 the record shows there was a distribution of quartz in the
6 lungs?
7 A My clinical opinion has not changed in this man at all.
8 Q Regardless of what's in the lung?
9 A Regardless of what was found in the lung.
10 Q You mean it's not important to know what was found in
11 the lung?
12 A Oh, it's very important to know what's found in the
13 lung, very important to know.
14 Q Is it important to know the quantity of what was found
15 in the lung? A That is right.
16 Q Isn't it important to know that it is something that could
17 not be if there was asbestosis. It could not be reducible
18 by ordinary pathological investigation?
19 A No, ordinarily pathological examination as done by
20 Dr. Singman would miss asbestosis except in far advanced
21 stages.
22 Q And that's true, the amount that was present was so slight
23 and so small it could not be found by the even rechecked
24 pathological investigation?
25 A Oh, I don't think that is true. I think they found far
26 advanced asbestosis in this man's lung and that's the

1 written report.

2 REFEREE: What written report?

3 A Dr. Watson's report.

4 MR. BURCHELL: Q And is this what you based your
5 opinion on, a far advanced asbestosis?

6 A Oh, no, I am not taking it from his report.

7 MR. SMITH: I think the insurance company's report
8 shows asbestosis bodies moderately advanced. It's on
9 page two.

10 REFEREE: "Asbestos body deposition, moderately
11 advanced lung."

12 MR. BURCHELL: Q Well, there is a difference, Doctor,
13 is there not, between asbestosis and the, just the presence
14 of asbestos in the lungs?

15 A It's the amount of reaction around it, yes. Moderate
16 interference with drainage.

17 Q So --

18 A But not being an expert pathologist, I would deduce
19 from these facts that this man and also from my clinical
20 and surgical experience that this man has moderately advanced
21 asbestosis.

22 Q Well, what evidence did you rely on to come to this
23 conclusion before you saw the report of Dr. Watson?

24 A The evidence was based on the history and experience with
25 his brother in which I missed the diagnosis, in which the
26 man had surgery because of an extensive pleural effusion

1 and I could not determine the nature of it, and then it went
2 on to further trouble, in which surgery was required to
3 make a definite diagnosis again on the opposite side, and
4 which time we took a lung biopsy and found his trouble and
5 with real damage to this man's lung. That case has been
6 before the Commission and has been settled, as I understand.
7 And this man worked under the same circumstances. He is a
8 twin brother of the man, over the same period of time.
9 Q Then you base, as I understand your testimony, you
10 based your diagnosis initially on the fact that Mr.
11 Cuthbertson had a brother who had asbestosis?
12 A That was one factor.
13 Q And you did not take a history from Mr. Cuthbertson?
14 A No, I had the history. I had the history. You're
15 talking about occupational history. I had an occupational
16 history.
17 Q Doctor, my initial question was to reach a conclusion
18 that the fibrosis in the lungs and you feel is present,
19 and was related to the asbestosis?
20 A That's right.
21 Q It is important to know the quantity of the asbestos that
22 is in the lungs, is it not? A That is right.
23 Q That is right. And if it's not found by ordinary
24 pathological medical investigation by Dr. Singman and Dr.
25 Soave in their techniques and is only found in minute
26 quantities in the lung, keeping this in mind, and keeping

1 in mind that the man had pneumonia in the past and other
2 chest difficulties, isn't it a distinct probability that
3 the fibrosis in his lungs is related solely to the other
4 condition?

5 A I can't --

6 MR. SMITH: I will object to the question as being com-
7 pound and complex.

8 REFEREE: Overruled. Can you answer? Answer the ques-
9 tion, Doctor.

10 A Well, I wouldn't -- you put up a proposition there,
11 a hypothesis to me which isn't true in the first place.

12 REFEREE: Q What do you mean it isn't true in the
13 first place?

14 A He said this man didn't have, and I was basing it on
15 things that I didn't base it on, and you said that the ex-
16 amination of Dr. Singman, who didn't look for asbestos bodies,
17 was a criterion in determining whether asbestos particles
18 are present or not is not true; when this question comes up,
19 we send it to a special lab. for examination and Dr. Singman
20 won't even test for it. This is a specialty.

21 MR. BURCHELL: Well, you asked Dr. Singman to look
22 again to see if there was any asbestos, didn't you?

23 A I asked him what he thought of it, and he said, "Well,
24 send it to the State lab."

25 Q You got his report.

26 A After he got a report from the lab.

1 Q No, before you got his initial report, after he looked
2 at it, didn't you? A Yes.

3 Q And he said he found it was fibrosed due to the
4 pneumonitis, right?

5 A No, chronic fibrosing pleuritis and chronic fibrosing
6 pneumonitis, which is entirely different from what you are
7 trying to make it out.

8 Q All right. Now, then, you asked him to look again,
9 didn't you, to see if there was any asbestos?

10 A And he said he couldn't, he would send it to the
11 state lab to pass on it. He might have said he couldn't
12 find any, but that didn't mean asbestos wasn't there. If
13 I had been served with that examination, we would have
14 stopped there, and that's no criteria to determine whether
15 a person has asbestos or not.

16 Q Isn't it true that after Dr. Singman says his technique
17 wasn't critical enough, he could not go down far enough to
18 get a small tracer amount, that you suggested that he
19 send it up to Berkeley?

20 A No, that is not true. At surgery I suggested this be
21 sent out for an examination for asbestosis through Dr.
22 Singman, realizing that he doesn't do it, realizing the
23 ordinary hospital pathologist doesn't test for these things,
24 that it must be sent for special examination. I know Dr.
25 Singman very well, respect his ability very much, but I
26 would not respect his ability to diagnose or not diagnose

1 asbestosis as exemplified by the steps taken.
2 Q Did you receive a report from -- have you seen
3 the report of Dr. Soave?
4 A Unless it's here, I haven't, and I don't know.
5 MR. SMITH: I think it's that short, that one right
6 there, Doctor.
7 A I have the report here.
8 MR. BURCHELL: This is the one to William Theilen.
9 A Beg pardon?
10 Q Is this the one made to William Theilen?
11 A Yes, William Theilen.
12 Q December 10, 1958. A That is right.
13 Q Which is part of the Defendants' Exhibit No. 6 this
14 date.
15 REFEREE: Go ahead. Let's have the question, Mr.
16 Burchell.
17 MR. BURCHELL: Q Having read this report, if the
18 pathological investigation, microscopic, clinical testing
19 by the pathologist at the Department of Health is negative,
20 for any evidence of asbestosis --
21 A Do you read that in here (indicating)?
22 Q I don't find any evidence there is any pathology
23 to asbestos there. ✓
24 A First of all, this man is a veterinarian, and I don't
25 think he says much of anything other than the presence of
26 fiber glass and granulomatous lesions that couldn't be

1 determined from tuberculosis, coccidioidomycosis or cer-
2 tain irritants or toxins.

3 REFEREE: All right, the point is, does that report
4 specifically indicate asbestosis?

5 A The report doesn't indicate anything.

6 Q All right, why didn't you say so?

7 A O.K. He didn't ask me.

8 REFEREE: He did ask you if it indicated asbestosis.

9 A I didn't understand it then.

10 REFEREE: Then you say it doesn't mean anything. Now,
11 answer the question directly, Doctor.

12 MR. BURCHELL: Q Now, if the amount is so small,
13 or of such an insufficient quantity to be able to
14 be determined by microscopic analysis by two pathologists
15 on histopathological examination of the specimens that
16 were taken during your, when you did the lobotomy?

17 A Lobectomy.

18 Q Lobectomy. I am sorry.

19 A That's right. There is a big difference.

20 MR. BURCHELL: You're confusing me --

21 A That's what you're trying to do to me.

22 Q I was going to suggest you would like to do it to me.

23 If this amount was such a small amount that couldn't
24 be found by microscopic analysis, would your opinion be
25 any different?

26 A Not changed one iota.

1 Q Well, isn't the quantity of asbestos important that you
2 find in the lung?

3 A It's the reaction of the lung to the asbestos is the
4 important factor.

5 Q I think you have already testified that you can not
6 determine from the reaction as to whether it's due to asbes-
7 tos, pneumonia or quartz, can you?

8 A Question once more, please.

9 Q You could not tell from observing the lung or what we
10 know today what evidence we have before us today in this
11 case whether it's due to quartz, whether it's due to the
12 chronic case of pneumonia in the past or whether it's due --

13 A Oh, that I can tell definitely. Chronic pneumonia
14 usually leaves not even scars in the pneumonic process,
15 I can tell if it's pneumonia. Quartz -- apparently, I
16 can't get the definition of what you mean by quartz, but
17 quartz, saying silicosis, I couldn't tell that grossly
18 between silicosis and asbestosis.

19 Q Well, to produce a finding of chronic fibrosing
20 pneumonitis : any number of noxious gases or fumes could
21 produce it, could they not?

22 A They can produce fibrosis in the lungs.

23 Q And cigarette smoking could produce it?

24 A Cigarette smoking produces just the opposite. It
25 produces a varishing lung.

26 Q Could benzine 24 cause scarring?

1 A I have no idea of what benzine 24 causes.

2 REFEREE: Any further questions, Mr. Burchell?

3 MR. BURCHELL: Yes, sir, just a moment.

4 REFEREE: Let's get on with it.

5 MR. BURCHELL: Q Do you know whether your records
6 indicate if Mr. Cuthbertson had received any medical treat-
7 ment for respiratory infections in the year before you
8 first saw him?

9 A He was referred to me by his private doctor, Dr. Larry --
10 Lawrence Brown, Richmond, who told me, and in fact, called
11 me as a chest specialist because of this problem.

12 Q When Dr. Brown first called you into the case, did he
13 discuss with you the fact that Mr. Cuthbertson had a brother
14 that had been involved?

15 A He was surprised to hear that there was a family
16 relationship, that the brother had been exposed to asbestos
17 -- asbestosis, or had asbestosis as the result of his
18 occupation and that this man was a brother, and he was,
19 he could understand then why he had such current respira-
20 tory problems.

21 Q If the bronchial, the bronchial drainage and the find-
22 ings of the sputum and what not that you identified as
23 late as May 9, 1959, that were present, these could be
24 residuals from the blood and the accumulation of material
25 following your surgery, your biopsy, could they not?

26 A You're asking me, as I understand your question, that

1 changes in this lung were due to my surgery?

2 Q No. Well, ~~some~~ changes were.

3 A There would be some changes but not --

4 Q No, my question is, you said that you found a bronchial
5 draining that continued up until May 9th of 1959.

6 A Whether they were part of the surgery? No, we worked
7 with this man for sometime in an attempt to rehabilitate
8 him following surgery, and I have already testified that
9 periodically lasts about two months in an ordinary indi-
10 vidual after thoracotomy.

11 Q Had his bronchial drainage stopped following surgery?

12 A No, bronchial drainage never follows. His abnormal
13 bronchial drainage at the present time exists and will
14 exist because of the damage to his lung.

15 Q During surgery there is a certain amount of accumulation
16 of blood and fluid at that time, is there not?

17 A Would impair the lung for a specified time in the
18 majority of cases bearing the fact that each person reacts
19 differently over a period of time. We could give them
20 around two months or roughly that length of time for them
21 to clear. Now, if you have diseased lungs and impaired
22 or injured lungs, it will take longer and much longer.

23 Q I see.

24 A You might be interested in knowing that we are very
25 actively engaged at the present time on a Navy research
26 project, the further details I can not tell, in which

1 the detailed anatomy of these lungs have been found to be
2 entirely different than what some of the other men have
3 been basing their knowledge upon and I just returned from a
4 meeting in Arizona where parts of that program was given.
5 Many ideas and concepts are going to have to be changed.
6 Q Now, Doctor, as I understand it, your definition of --
7 your diagnosis of asbestosis is based on the presence of
8 fibrosis in the lungs.

9 A The presence of asbestos products, asbestos.

10 MR. SMITH: The question has been asked and answered.

11 REFEREE: It has. Now, let's get on with it, Mr.
12 Burchell.

13 MR. BURCHELL: All right.

14 Q Besides asbestos in the lungs and fibrosis, is there any
15 other evidence in this record that you found?

16 A No, I found no other evidence for this man's disease
17 than what I have testified to.

18 Q Did any other evidence for your conclusion other than
19 asbestos found in the quantity that was found and the
20 fibrosis --

21 A My conclusion is being based upon the occupational
22 history, being based upon the clinical history, being
23 based on X-rays, being based on surgical observation and
24 gross and microscopic observation and clinical follow up
25 on this man made me come to a definite medical diagnosis of
26 asbestosis with definite injury to Mr. Cuthbertson's lungs.

1 Q Now, have you had this matter referred to any patholo-
2 gist other than Dr. Singman?
3 A These pathologists here are the only people we have seen.
4 Q I see. And this opinion also includes the opinion of
5 Dr. Singman, your opinion?
6 A I can't give you Dr. Singman's opinion. I don't even
7 have his report.
8 MR. BURCHELL: I have no further questions, Mr. Referee.
9 REFEREE: Mr. Moore.
10 MR. MOORE: Q Doctor, you say you are a board,
11 certified --
12 A Board Certified, Founders Group American Thoracic
13 Surgeons, board qualified in diseases, in internal medicine,
14 and eligible for board of sub-group of diseases of the
15 chest, however, I can not have both because one would
16 nullify the other. Unfortunately, that gives away my age.
17 Q Doctor, did I also understand you to say that the three
18 cases are the ones that you have had experience --
19 A Two cases in this group. ✓
20 Q Two other cases in asbestos?
21 A In this group.
22 Q In this group. Have you had others of this --
23 A I have been in practice of diseases of the chest and
24 surgery in this area for twenty years.
25 REFEREE: What's your answer??
26 A My answer is I can not recall any right off-hand but

1 I am not sure. I have had others.
2 Q But you can not recall them?
3 A I can not recall them right at this time.
4 Q Have you ever had any specialized training, Doctor, in
5 occupational diseases of the chest? A Yes.
6 Q And where?
7 A I have attended meetings throughout the world and
8 gone to groups, some group meetings throughout the world,
9 throughout the United States and part of our work in my
10 general training days dealt extensively with industrial
11 diseases.
12 Q What meetings were these you attended?
13 A International symposiums of diseases of the chest; in
14 Tokio last year; made a tour through Asia, New Zealand,
15 Australia; sent out by the Navy and by --
16 Q Doctor, the question was --
17 A You asked me what I had, where I had gone. You want
18 to hear --
19 Q For occupational diseases of the chest.
20 A This all includes occupational diseases of the chest.
21 Q I asked you if you had any specialized training in
22 occupational diseases.
23 A I don't specialize specifically but I have as much
24 training as practically all men in this field.
25 Q Have you ever attended any lectures or studied any of
26 the material in the symposium at Saranac Lake, New York?

1 A Yes, I have looked at Dr. Wright's work on pulmonary
2 physiology and silicosis. I won't say I am familiar with
3 it but I know them and I know Dr. Wright.

4 Q Can you tell us, Doctor, what concentration of
5 particles and what size asbestos are pathogenic for asbestos

6 A The size must be sufficiently small to pass through
7 the bronchioles on respiration to be picked up, and by the
8 lymphatics and carried through the mucus membrane at that
9 point.

10 Q Specifically, what is that, Doctor?

11 A I do not remember right at this time. I am a little
12 tired tonight.

13 Q Well, so far as concentration, do you know what the
14 concentration is?

15 A I don't, I can't. I do not.

16 Q Pathogenic? A I do not know at this time.

17 Q Well, Doctor, isn't it true you haven't made any special
18 training in silicosis or asbestosis?

19 A Any special training. I am trained in diseases of the
20 chest, which includes a large part of it, as exemplified
21 by care of these patients. Of course, I have.

22 Q Doctor, you don't know what sizes or concentration of
23 asbestos are necessary to produce the pathological changes
24 in the lungs, do you?

25 A I know that this man has asbestos particles in his lung
26 and I know they're the ones that caused the damage.

1 REPEREE: Doctor, will you please answer the question?

2 A I have had a lobotomy but go ahead. You wanted to know
3 the exact size. I can get them for you in two seconds.
4 I don't remember them at this time.

5 REPEREE: I can get them, too, but I want to know if you
6 know.

7 A Not at this moment I do not know. I have known them
8 many times.

9 MR. MOORE: Q Now, Doctor, there is no reported
10 specific pathology in any of the X-rays, is that right?

11 A As far as the X-rays of the man is concerned there
12 actually isn't. If my eyes -- if I had the X-rays here,
13 but to me there was in my eyes, I feel that a man special-
14 izing, that there was a fine granular appearance to these
15 X-rays, however, I again can not answer that because I don't
16 know at the moment because the X-rays are not here.

17 Q You don't remember even seeing it prior to surgery?

18 A Of course, I saw them prior to surgery.

19 Q Well, I am sorry. I understood your testimony this
20 morning to be that you did not remember, whether you saw them.

21 A No, the only equivocation this morning was I was trying.

22 I did not remember the dates the X-rays were taken or
23 exactly where they were. I would not operate on the man's
24 chest unless there was testing and pathology present. I
25 saw the X-rays at Herrick and I saw the X-rays at Richmond
26 before the surgery was performed. Likewise Dr. Brown

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1 would not allow me to operate on this man before surgery
2 if I hadn't seen them.

3 Q Doctor, I understand you would not have operated on
4 this man as you did unless there was pathology visible on
5 X-rays.

6 A There was pathology visible on X-ray.

7 Q Despite the fact that the X-rays may have been reported
8 negative by roentgenologists?

9 A Who did not have a complete medical history or informa-
10 tion regarding the possibilities of disease in this man's
11 chest.

12 Q Well, Doctor, don't you, in that situation don't you
13 frequently provide the roentgenologist with the history,
14 tell him what you were looking for?

15 A I do on occasion. I did not on this occasion.
16 This man read his X-rays long before I had an opportunity
17 to talk to him and made his report.

18 Q Well, can you tell us whether prior to the time that
19 you took, whether prior to the time you did your surgery
20 you actually took current X-rays?

21 A He had current, he had recent X-rays taken. Now, I
22 can't remember at this point just where they were or how
23 they were, and that's why I was being equivocal this morning
24 to your other collaborator, but he had X-rays prior to
25 surgery or we would not have done surgery, and that's a
26 matter that can easily be straightened out, merely getting

1 the X-rays.

2 Q Doctor, I believe the ones, the X-rays which were for-
3 warded to you by Dr. Thompson included those going up to
4 1956 and included those -- strike that. Now, Doctor, so
5 far as the pathological reports again there was none of
6 the pathological reports showed any specific diagnosis of
7 asbestosis, is that right?

8 A No, Dr. Watson reports asbestosis.

9 Q He reported asbestosis?

10 A Asbestos particles and fibrosis of the lung.

11 Q Well, isn't Doctor --

12 A Isn't that asbestosis?

13 REFEREE: I don't know. You tell us.

14 A I have tried to many times.

15 MR. MOORE: Q The question, Doctor, whether the
16 pathologist's report --

17 REFEREE: Before we go any further --

18 MR. MOORE: The question is whether --

19 REFEREE: Just a minute. As you say this morning, you
20 equivocate too much.

21 A The question --

22 REFEREE: Nobody is asking you to argue anything;
23 they're only asking you to answer questions. Answer them.
24 If you can't answer them, say so.

25 MR. MOORE: Q Neither pathologist, Doctor, made a
26 diagnosis of asbestosis? A No.

1 Q The mere bare existence of asbestos particles in the
2 lung is not diagnostic of asbestosis, is it?
3 A No.
4 Q And so far as the pathological or laboratory studies are
5 concerned, that is all they have shown, isn't it, the mere
6 existence of asbestos in the lungs?
7 A Am I to answer that just the way he wants it?
8 Q Limit yourself solely to the laboratory examination.
9 A Laboratory examinations do not show the --
10 Q Yes.
11 A Do not show -- wait a minute. Laboratory diagnosis --
12 the pathologist has not diagnosed asbestosis.
13 Q So you have to determine whether there is sufficient
14 asbestos and sufficient pathological changes in the tissues
15 to cause this disease, isn't that the essential question?
16 A Yes.
17 Q And in this case, this gentleman has had a history of
18 recurrent episodes of pulmonary infection.
19 A Not before exposure. I am sorry, I didn't answer it
20 "Yes" or "No."
21 Q Doctor, the fibrotic change --
22 REFEREE: You see, Doctor, if you will answer "Yes"
23 or "No." To be frank, the way you appear, you impress me
24 very much as being on the defensive.
25 A Not defensive; I am merely tired.
26 REFEREE: All right, answer questions directly.

1 MR. MOORE: Q Doctor, the so-called fibrotic changes
2 are very, very minor in this case, aren't they?

3 A They're not; no, they are -- now, I don't know how
4 to answer that "Yes" or "No."

5 REFEREE: Q Are they mild or not?

6 A They're not minute.

7 MR. MOORE: Q Well, none of the roentgenologists
8 have noted their existence, have they?

9 A No.

10 Q Doctor, the temporary phase of disability in this
11 case was caused by the surgery, is that right?

12 A No.

13 Q Well, was he working up until the time of surgery?

14 A He was not working when he came, no -- yeah, he was
15 working.

16 Q And the reason he took off work was because you did
17 the surgery? A No.

18 Q Why did he leave work, Doctor?

19 A What you're asking me --

20 Q Why did he leave work?

21 A He left work because of respiratory complaints, an
22 undiagnosed chest problem.

23 Q Well, Doctor, the surgery did not, was not designed to
24 alleviate his situation one way or the other?

25 REFEREE: That's been asked and answered, Mr. Moore.

26 Let's not ask useless questions.

1 MR. MOORE: Q What, Doctor, is intermittent positive
2 pressure breathing? What is this? Would you tell us?

3 A That's oxygen and air given under pressure to increase
4 inhalation and reduce the edema and open up congested
5 air ways.

6 Q You have been giving that since you gave it for a
7 period from August 27, '58, intermittently, through May
8 of '59. A And now.

9 Q Well, Mr. Cuthbertson has testified that he still has
10 the same complaints, Doctor? A That is right.

11 Q But then this treatment has not been very effective in
12 alleviating them, has it? A Yes, it has.

13 Q What are the normal ways, Doctor, in which you make a
14 diagnosis of asbestosis?

15 REFEREE: Oh, let's not go over that again, Mr. Moore.

16 MR. MOORE: Q Speaking, Doctor, of vaccine which
17 you have given this man: what is that?

18 A Cutter mixed up a respiratory vaccine that gives them
19 temporary immunity against the organisms within his own
20 respiratory tract. It's a passive type of immunity.

21 MR. MOORE: I don't have any further questions.

22 REFEREE: Mr. Smith, any questions?

23 MR. SMITH: Q Doctor, you made reference to two or
24 three occasions where you have had to give him some anti-
25 biotics and that he had respiratory infection. Was there
26 any relationship between the respiratory infection and the

1 need for biotics and his asbestosis or not?
2 A There is definitely, yes.
3 Q What is the relationship?
4 A These people, once they get a respiratory infection,
5 it hangs on because their lungs are not functioning
6 normally, and goes into periods of pneumonitis similar
7 to the one just prior to that when I saw him.
8 Q Doctor, you were asked, I believe, and shown the report
9 of Dr. Soave, and you had also mentioned that you had read
10 the pathological report of Dr. Watkins?
11 A Watson.
12 Q Watson. Excuse me. Which is in Dr. Hinshaw's report,
13 and there is this microscope, or this report of the
14 Department of Health as to their findings. I don't know
15 whether you have had occasion to see that or not.
16 A No.
17 Q I gave it to you. I don't know whether you read it.
18 A I haven't had a chance to see it.
19 Q Would you just read that a minute and advise whether
20 or not any of those reports, whether in view of your report
21 you wish to change your opinion or diagnosis in this case?
22 A My opinion has not been changed whatsoever.
23 MR. SMITH: I have nothing further.
24 MR. SCHWAB: May I have one question on that?
25 Q When is the first time that you saw Dr. Soave's report?
26 A Today.

1 REFEREE: Any further questions? That's all, Doctor.

2 A Thank you very much.

3 REFEREE: Go ahead.

4 MR. SMITH: I was just going to ask the doctor to send
5 me a bill for his time, which I would file, and I believe
6 we have some litigation costs in issue.

7 REFEREE: Yes, that's in issue.

8 MR. SMITH: Yes. Applicant has nothing further, your
9 Honor.

10 REFEREE: Do you want Dr. Crenshaw's report? Do you
11 want to put that in evidence?

12 MR. SMITH: Yes.

13 REFEREE: That will be Applicant's Exhibit No. 2,
14 together with his bill. Now, anything further?

15 MR. SCHWAB: No.

16 MR. SMITH: Your Honor, we would like to submit a bill
17 from Dr. Crenshaw for his testifying before the Commission.

18 REFEREE: I am not going to accept it. I am going to
19 make a suggestion. The medical evidence in this case is
20 very poor and very unconvincing one way or the other, both
21 ways. I don't know if this man has asbestosis. None of
22 the doctors will tell me what asbestosis is and what causes
23 it. I would suggest you get an agreed examiner and leave
24 it to him and file his report. Agreeable with you, Mr.
25 Schwab?

26 MR. SCHWAB: Yes, sir.

1 MR. MALONEY: It's agreeable to me.

2 REFEREE: Will the defendants take care of it, Mr.
3 Moore?

4 MR. BURCHELL: Agreeable.

5 REFEREE: Is that agreeable, Mr. Moore?

6 MR. MOORE: Yes, satisfactory.

7 REFEREE: Is it agreeable?

8 MR. SMITH: I will go along with your recommendation.

9 REFEREE: All right, you people get together and pick
10 out your agreed examiner. Get somebody who knows something
11 about occupation and who has had some background, and tell
12 me what asbestosis is, just like they do in silicosis cases.
13 They tell me what silicosis is and what causes it, the
14 exposure necessary, the size particles. I want some
15 information on which I can decide a case. And see to it
16 that they get all this medical information you have.
17 How long do you think it will take to do that? I know
18 this is more than the usual case. I agree that thirty days
19 isn't too short.

20 MR. SCHWAB: I don't know whether we can agree to a
21 man, Mr. Referee.

22 REFEREE: What?

23 MR. SCHWAB: I don't know whether we can agree on a
24 doctor.

25 MR. SMITH: I was going to suggest, why don't you discuss
26 with the Medical Bureau --

1 REFEREE: I am not going to do that. I want all the
2 parties -- that sort of a situation, it would be much more
3 scientific for me to toss a coin, and be much fairer to both
4 sides.

5 MR. SMITH: To whom?

6 REFEREE: To both sides, to toss a coin.

7 MR. SMITH: Oh, all right.

8 REFEREE: You take any choice of doctor -- I can hand
9 pick a doctor. I can hand pick a doctor with the chances
10 of having one doctor or another doctor with a better
11 chance going to the applicant or defendant. I am not going
12 to do that. I see no reason why you can't get together on
13 it.

14 MR. BURCHELL: Could we have ten days to get together?

15 REFEREE: You can have ten days to get together on it.
16 I don't think you need ten days. You get together on it.
17 What is today, Thursday? You get together on it next
18 Wednesday. Then after that then you will have forty-five --
19 the submission is: The parties will agree upon an agreed
20 medical examiner by next Wednesday and thereafter they
21 shall have forty-five days to serve and file a report of
22 such agreed medical examiner; the case then to stand sub-
23 mitted without further proceedings. That's all.

24 MR. SCHWAB: Mr. Referee, we still have some physical
25 exhibits that haven't been received in evidence.

26 REFEREE: What? ✓

1 MR. SCHWAB: There is no longer a man's rooting
2 section at Cal. we could give them to, so I think we
3 should receive them in evidence.

4 REFEREE: I don't want them in evidence. We have got
5 a description of them. That won't help having them in
6 evidence. We have a description of what they are and
7 how they're made. That's all we need.

8 All right, submission as given.

9 ---OOO---

10
11 C E R T I F I C A T I O N

12
13 I hereby certify that the foregoing is a full, true
14 and correct transcript of the proceedings taken by me
15 in stenotype on the date and in the matter described on
16 the first page hereof.

17
18 *W. C. Clace*
19 Official Reporter
INDUSTRIAL ACCIDENT COMMISSION

20 November 25, 1959.
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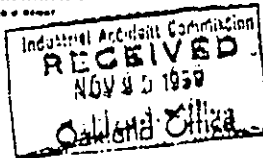
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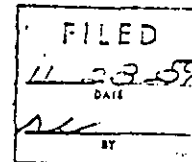
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GLENCOURT 2



November 20, 1959



Cabot Brown, M.D.
450 Sutter Street
San Francisco, California

Re: ROBERT P. CUTHBERTSON vs.
PLANT ASBESTOS CO., et al

Dear Dr. Brown:

You have been appointed as an impartial medical examiner to examine the above client.

I am having a transcript of Dr. Crenshaw's testimony prepared and will forward it to you when received. You are requested to withhold your opinion and report until you have the opportunity to review said doctor's transcript and findings which we feel would be material to an opinion by you.

Very truly yours,

JOSEPH E. SMITH

cc: Mullen & Filippi
315 Montgomery St.
San Francisco

Industrial Indemnity
350 Sansome Street
San Francisco

Hanna & Brophy
1540 San Pablo Ave.
Oakland

State Fund
450 McAllister
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