



The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, Ohio 44115-1075

May 15, 1987

Drew, Eckl & Farnham
P.O. Box 7600
Atlanta, GA 30356
Attn: Dave Smith

Re: **REDACTED**
INA Claim No. 130-C-459452-4

Dear Dave:

I spoke with Gerald Childrey on Friday, May 1, 1987 and advised that we wish to pursue the appeal with the Court of Appeals. I understand your concern whether or not we are able to file an appeal as a question of statute of limitations since your receipt of the order was received well after the 20 day appeal period.

REDACTED However, since no second opinion was ever obtained from an independent medical physician of our choice to provide an opinion whether or not he concurred with Dr. McNabb's opinion, I asked Mr. Childrey to schedule an independent medical evaluation. In particular, we ask the physician to provide an opinion whether or not _____ would have suffered a stroke regardless of what activity he performed on that particular day. Since it was documented that _____ as in the initial stages of suffering the stroke while he was working, it is likely that regardless of what activity he performed on the given day, the stroke would have resulted.

In addition, we need to determine whether or not the claimant's application for Social Security benefits has been approved. It is likely that should his application for benefits be denied, it would have a beneficial impact on our position.

Dave, previously we discussed whether or not we can implead the second injury fund to offset some of our costs should we ultimately lose this case. I understand that it may be too late to involve the second injury fund in this matter, however, please explore that possibility further. If there is any likelihood that their involvement could be timely, please do whatever you can to make them a part of this claim.

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Mr. Dave Smith
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Re:

REDACTED

Gerald and I briefly discussed the legalities of aggravation of a pre-existing condition. In reference to some of your earlier letters to me which have highlighted the Carter vs. Kansas City Court case, it appears as though there is legal relief to us if the court accepts our arguments along the lines of the Carter case.

Dave, if you have any questions regarding my comments, please feel free to call me at your convenience. Thank you for your cooperation.

Sincerely,

Anthony J. Colangelo
Workers' Compensation
Claims Administrator

AJC:pw

cc: G. Childrey

*This letter wasn't sent.
I discussed the contents of this letter with Dave's boss John Fungaro. John advises that none of the suggestions made are available, if we get by the statute of limitations problem. Only consider information that the court would accept previously submitted. No new evidence can be presented by law. Since our position though the previous hearing was questioned by the court, we would be throwing ~~out~~ ^{good} money after bad. If we continue after that we will concentrate on terminating it.*