Employers Mutuals of Wausau

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AIR MAIL
SPECIAL DELIVERY

Dr. Robert A. Kehoe
University of Cincinnati
The Kettering Laboratory
Eden Avenue
Cincinnati 19, Ohio

February 13, 1962

Re: [redacted]
Vs: [redacted]attery, Inc.
File A24-46670

Dear Dr. Kehoe:

This will confirm my telephone conversation with you on Tuesday, February 13th.

I am enclosing our entire original file for your examination and opinion. You will note that part of the plaintiff's testimony has been taken and the minutes are enclosed.

Our Vice-President, Mr. Linster, originally suggested your office and we do have a report from you dated February 14, 1961, indicating that the record of Mr. [redacted] was reviewed by you.

We discussed the feasibility of at least considering having you in Boston at some future date to appear as an expert witness in behalf of the insurer. Of course, it goes without saying, that this consideration will be looked at anew after you have had opportunity to review the file and render an opinion.

We have several questions that should be resolved or answered. Our records indicate that effective March 4, 1957, we were the insurance carrier on the Electric Storage Battery Co. in the Massachusetts location. Prior to that time, Hartford Accident and Indemnity Insurance Co. was the insurance carrier. The Division of Occupation-Hygiene of Massachusetts has indicated that the urinalysis of Mr. Conway, commencing August 30, 1948 (prior to our taking over the account) up through and including July 6, 1956, showed that within the interim of time, Mr. [redacted] was exposed to lead. We have but one urinalysis result as of July 9, 1957, showing a .09 milligrams of lead per litre and there seems to be no question that this is not harmful exposure.

The claim is for an optic neuritis, both eyes of Mr. [redacted] have a vision just about tantamount to industrial blindness. The plaintiff is alleging that this eye

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condition is due to the lead absorbed in his system while employed by the assured; the medical reports indicate that this optic atrophy is causally related to the lead absorption. Admittedly, the medical men do state that there is nothing concrete that the lead absorption caused the optic atrophy, but on the other hand, they're saying, if that didn't cause it, what did, and we don't know what did, then the lead must have caused it.

Further, we would want to know just how optic neuritis and optic atrophy progresses. By that, I mean to state, that there seems to be no question in my mind that the man had absorbed a dangerous quantity of lead prior to our taking over. Assuming for one moment that not one iota of lead was ever absorbed subsequent to 1956, would this optic atrophy have resulted? Again, to take an extreme, assuming that only several molecules of lead were absorbed into the system, would that have been enough to set off a chain reaction, or would that have been enough to precipitate an otherwise dormant condition? Or to paraphrase, did the .09 milligrams of lead per liter as shown in the report of November 28, 1960, have any bearing or was it the "straw that broke the camel's back?"

Could you comment on the fact that a man's tolerance for lead may be at some level but it doesn't take more than a very minute quantity of lead thereafter to set up this chain reaction? What I'm getting at, is that, are we liable or should the previous carrier be obligated to pay for this optic neuritis or this permanent disability condition? I think the crux of the matter is going to resolve around the one fact, and that is, was any subsequent exposure to lead the precipitating factor.

We have checked one battery manufacturer that may have employed Mr. Conway subsequent to being employed by our assured, and we received a negative response. I have just written to a second battery concern (we just found out that possibly he may have been employed there). Rather than wait for the results of my letter, I would just as soon have you start reviewing the file and sending us your opinion.

If something develops in the interim, I will telephone your office. Again, thank you very much for spending so much time with me on the telephone.

Yours very truly,

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Claims Manager

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