

147531

Joint Communication

PLAINTIFF'S
EXHIBIT

ACS-3

February 19, 1960

J. E. Soller, Lancaster

J. J. Roper, Boston

James E. Shepard
Construction Employee
Asbestos Claim

We have your memo of February 17th in regard to the above. Frank Jones and George Anderson, our foreman on the job, where Shepard worked from September 17, 1957 to November 1, 1957, attended the hearing today at the Industrial Accident Board, 150 Tremont Street, Boston, where the case was held before an auditor. Attorney Spler represented Travelers. The hearing was concluded and Jones and Anderson appeared with all necessary records pertaining to the case but since they had consulted with Attorney Spler prior to the hearing, they were not called at the hearing.

Attorney Spler informed Frank Jones that inasmuch as Mr. Shepard's widow is 52 years old and she has a life expectancy of approximately fifteen years, if we were to go to Court on the matter, it would cost us at least in the vicinity of \$20,000; and that in view of the accrued compensation of approximately \$3100 and other heavy expenses for medical and hospital bills, Spler deemed it advisable to settle the case out of Court for \$20,129. Despite the fact that Shepard worked for us for the comparatively short period of approximately two months, Spler felt that since we were the last employer and for other reasons best known to himself, he did not want to take the case before a jury and made the above-mentioned settlement.

Shepard's attorney had a very prominent lung and cancer pathologist named J. Stewart Rooney, engaged to testify for the plaintiff at the hearing. This medical man is presently engaged by the Ten Mile attorneys on the current murder case being tried in this area. We do not know whether this is peculiar to Massachusetts law or not, but Attorney Spler informed Frank Jones that the litigation for an employee who is a case of this kind, is usually held chiefly responsible for a death and you may be interested also to know that the attorneys for the plaintiff did not claim that the Asbestosis was contracted necessarily while Shepard was in the employ of Armstrong Cork Company; but rather that while employed by them during this latter period of the disease, the disease was accelerated to the point of contributing to his demise.

If you have any other questions concerning this matter please write to Frank Jones or to me and we will try to answer them for you.

BT

J.E. Soller, Lancaster

P.S. - I have told Frank Jones that we should, insofar as possible, make every effort to determine, when hiring new men, that they are free from lung disorders. I know this is a difficult thing to do but perhaps a study could be made by you or by our Company regarding the best manner to detect situations of this kind.

02017

J. E. Keller

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Feb. 19, 1961

J. J. Meyer

They undoubtedly cause our insurance rates to jump every time something of this nature takes place, and perhaps we could determine on some manner of securing X-ray reports on new men as I understand the Union now takes X-rays of at least a large portion of the men's chests each year. I think some study on this point might be worthwhile. I would appreciate your comments on this at your convenience.

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