(C.F.) File with petition for claim.

STATE OF CALIFORNIA

INDUSTRIAL ACCIDENT COMMISSION

[illegible]

JACK CUTHBERTSON,

Applicant,

vs.

PLANT ASBESTOS AND ASBESTOS WORKS, ARMSTRONG CORK COMPANY, KUNDET CORK CORPORATION, PLANT ASBESTOS COMPANY, EASTERN ASBESTOS COMPANY, J. T. THORPE AND SON, and TRAVELERS INSURANCE COMPANY, INDUSTRIAL INDEMNITY COMPANY, et al.,

Defendants.

Case No. SF [illegible] 161-870

NOTICE OF HEARING OF APPLICATION FOR ADJUSTMENT OF CLAIM

PLAINTIFF EXHIBIT #76 5-27-

You are hereby notified that an application to adjust a claim 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

Rm. 206, 1531 Webster St., Oakland, California, on the

23rd day of May, 1955, at 1:30 o'clock p.m. All p.m.

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.

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

Dated April 25, 1955.

INDUSTRIAL ACCIDENT COMMISSION

By [illegible], Jr.
Assistant Secretary

The undersigned certifies that he is an employee of the Industrial Accident Commission; that he 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 [illegible], California, with the postage thereon fully prepaid, and addressed to the said parties at their last known place of business or residence, as follows, to wit:

NAMES OF PARTIES SERVED	DATE OF SERVICE
see attached sheet	

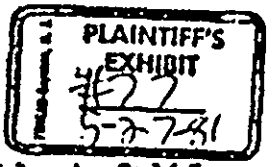
[Signature]

SEP 7 1983

Blumberg No. 6113

PLAINTIFF'S EXHIBIT F112

3-10-81
(C.F.)



Dept. of Employ., P.O. Box 1657, Oakland, Calif. 4/25/55
Occidental Life Ins. Co., 300 Montgomery St., S.F., Calif. "
Jack Cuthbertson, 2284 Holbrook Dr., Concord, Calif. "
Smith & Parrish, Fin. Center Bldg., Oakland, Calif. "
Plant Rubber & Asbestos Works, 5309 Horton St., Emeryville, Cal. "
Armstrong Cork Co., 1355 Market St., S.F., Calif. "
Mundet Cork Corp., 440 Brannan St., S.F., Calif. "
Plant Asbestos Co., 5309 Horton St., 5309 Horton St., Emeryville, "
Western Asbestos Co., 675 Townsend St., S.F., Calif. "
J. T. Thorpe & Son, Emeryville, Calif. "
Travelers Ins. Co., Latham Square Bldg., Oakland, Calif. "
Indus. Indem. Co., 350 Sansome St., S.F., Calif. "
State Comp. Ins. Fund, Personal Service "
Pacific Employ. Ins. Co., 3770 Piedmont Ave., Oakland, Calif. "
Calif. Compensation Ins. Co., 28 Geary St., S.F., Calif. "

YWX

3-10-81 (C.F.)

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL ACCIDENT COMMISSION

DO NOT WRITE IN THIS SPACE

ENTERED ON DOCKET
BY

APPLICATION FOR HEARING

Case No. 55[illegible] 161-470
Filed March 1, 1955

Employer's Name JACK CUTLER-RYSON
Employer's Address 2214 Nicholson, Alameda
Social Security No.
Name of Employer
Employer's Address Concord, California
Name of Insurance Carrier
Insurance Carrier's Address

Employer's name Jack Cutler-Ryson
Employer's date of birth [illegible]
Date of your injury 1944-1954
Employer's occupation at time of injury asbestos worker
Place where injury occurred San Francisco, Calif.
When did you leave work as a result of this injury September 30, 1953. October 19, 1954
How did injury occur breathing substance in course of employment to chest & lungs.
What part or parts of your body were injured lungs
When did you return to work Still disabled
Full or part time work and at what wage

Your wages or salary (before deductions) minimum per hour or $ per week or $ per month.
If paid on hourly rate, how many hours did you work per week
Did you receive any of the following: Board? Yes ☐ No ☐; Lodging? Yes ☐ No ☐; Tips? Yes ☐ No ☐; Other advantages? Yes ☐ No ☐
State their weekly value $

Have you been paid any compensation? Yes ☐ No ☒ How much? Weekly rate of payment $
Date when last payment was made 19
Has the employer or the insurance carrier furnished you with any medical treatment? Yes ☐ No ☒
Date when last treatment was given 19
List names of all doctors who have treated you and who were furnished by the employer or insurance carrier. University of California
Have you obtained any medical treatment at your own expense? Yes ☐ No ☐
List names of all doctors who have treated you at your own expense

Are you claiming any of the following benefits (Answer Yes or No):
(a) Temporary disability payments yes (b) Permanent disability payment
(c) Further medical treatment yes (d) Cost of your medical expense yes
(e) List other benefits claimed and not mentioned above

Have you ever before filed a claim with this Commission? Yes ☐ No ☒ If so, when was it filed

Irwin A. Gladin
Financial Center Bldg., Oakland
Glencourt 2 2000

/s/ JACK CUTLER-RYSON
Date March 4, 1955

PLAINTIFF'S EXHIBIT 2-1-2a

3-10-81 (C.K)

Re: JACK CUTHBERTSON IAC # 161-870 List of Employers

Plant Rubber & Asbestos Works,
5309 Horton St.,
Emeryville, Calif.

Western Asbestos Co.,
675 Townsend St., San Francisco, Calif.

J. T. Thorpe & Son,
Emeryville, Calif.

Mundet Cork Corp.,
440 Brannan St.,
San Francisco, Calif.

Cork Insulation Co.,
San Francisco, Calif.

Armstrong Cork Co.,
1355 Market St.,
San Francisco, Calif.

Plant Asbestos Co.,
5309 Horton St.,
Emeryville, Calif.

LIST OF INSURANCE COMPANIES

Travelers Insurance Co.,
Latham Square Bldg.,
Oakland, Calif.

Industrial Indemnity Co.,
350 Sansome St.,
San Francisco, Calif.

State Compensation Ins. Fund
450 McAllister St., San Francisco, Calif.

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

California Compensation Insurance Co.,
25 Geary St.,
San Francisco, Calif.

PLAINTIFF'S EXHIBIT #69 12-2-64

EMPLOYER'S REPORT OF INDUSTRIAL INJURY

TO

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STATISTICS AND RESEARCH

#69
3-10-81 (C.F.)

Claim Department
THE TRAVELERS INSURANCE COMPANY
315 Montgomery St., San Francisco 4, Calif.

Every question must be answered fully to avoid further correspondence. FAILURE TO FILE IS A MISDEMEANOR SUBJECT TO MAXIMUM FINE OF $100.
(Labor Code, Sections 6407-6418)

11-12-64 received
Workmen comp claim
filed
Temporary Claim Exam

Please make this report in DUPLICATE so that we can file copies with Division of Labor Statistics and Research in your behalf. Every work injury to an employee which causes disability lasting longer than the day of the injury or which requires medical service other than first aid treatment must be reported within five days after the injury. If the injury results in death, a report must be made by telephone or telegraph directly to the Division of Labor Statistics and Research not later than 24 hours after death.

EMPLOYER — DO NOT WRITE IN THIS COLUMN

1. Name (Give name under which insurance done, business conducted) Armstrong Cork Co. — Case No.
2. Office address (No. and Street) 1355 Market St (City or Town) San Francisco, Calif. — Employer No.
3. Nature of business (Manufacturing shoes, retailing meats, trucking for hire, etc.) Industrial Insulation — Industry

INJURED EMPLOYEE

4. Name Jack Cuthbertson — Soc. Sec. No. 572-24-8568
5. Address (No. and Street) 2284 Holbrook Drive (City and Town) Concord, Calif. — A&H
6. Age 26 — 7. Sex Check (✓) Male X Female — 8. Check (✓) Married X Single
9. Number of hours worked per day 8 per week 40 — Number of days worked per week 5
10. Wages $ 3.175 per hour, or $ 25.40 per day, or $ 127.00 per week. (If earnings at irregular rate, such as piece work or on commission basis, enter actual average weekly earnings for conversion period not to exceed one year.) — Sex and Marital Status
11. If board, lodging, or other advantages furnished in addition to wages, give estimated value $ varied per day, or $ per week — Weekly Wage

ACCIDENT

12. Place of accident (No. and Street) Unknown (City or Town) (County) — County
13. On employer's premises (Yes or No) 14. Department — Accident Date
15. Date of accident 16. Hour of day A.M./P.M. 17. Did injury result in disability beyond day of accident? (Yes or No) 18. If yes, give date last worked 19. Was injured paid in full for this day? (Yes or No) 20. If injured in a mine, check (✓) accident location: Surface MH Underground Shaft — Occupation

CAUSE OF ACCIDENT

21. Occupation (Job title) Asbestos Worker 22. How long employed by you at this occupation? Check (✓) Less than 6 months 6 months to 1 year over 1 year X 23. What was employee doing when accident occurred? (Describe briefly, using one leading word, operating drill press, shoveling dirt, working down stairs, etc.) Insulating Pipes, Ducts, and Equipment — Accident Type
24. How did the accident happen? (Describe fully, stating whether the injured person fell, was struck, etc.; give all factors contributing to accident. Use other side of report for additional space) Allegedly caused "Asbestosis" due to working with insulation material. Employee voluntarily quit on 7-11-54 for similar type of work with another employer. — Agency
25. What machine, tool, substance, or object was most closely connected with the accident? (Name the specific machine, tool, appliance, gas, liquid, etc., involved) — Agency Part
26. If mechanical apparatus or vehicle, what part of it? (Guard, gearing, etc.) — Mach. Defect
27. Were mechanical guards or other safeguards provided? (Yes or No) 28. Was injured using them? (Yes or No)
29. What do you recommend for preventing this type of accident? (State the specific preventive measures that can be taken by employer and workers. Do not say, "By being more careful." Specify what should or should not be done) — Unsafe Act

NATURE OF INJURY AND PART OF BODY AFFECTED

30. (Describe in detail the nature of the injury and the part of the body affected. For example: amputation of right index finger at second joint, fracture of ribs, lead poisoning, dermatitis of left hand, etc.) Unknown — Personal Defect
31. Name and address of physician — Nature of Injury
32. Name and address of hospital — Location
33. Has employee returned to work? (Yes or No) 34. If yes, give date 35. At what wage? $ per — Part of Body
36. Did injury result in death? (Yes or No) 37. If yes, give date — Source of Injury
38. In case of death, give name and address of nearest relative — Insurance Carrier
39. Names and addresses of witnesses
40. Is injured related to Employer? No If so, how?

Date of this report 11-10-54

Signed by JM (Signature) Official position Construction Supt.

PLAINTIFF'S EXHIBIT Z-1-2b

Filing of this report is not an admission of liability. "... No report of injury required to be filed by an employer or an insurer by this chapter shall be admissible as evidence in any adversary proceeding before the Industrial Accident Commission ..."

C-4587 Rev. 7-63 (Reverse side)

EMPLOYER'S REPORT OF INDUSTRIAL INJURY
TO
STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STATISTICS AND RESEARCH

Claim Department
THE TRAVELERS INSURANCE COMPANY
315 Montgomery St., San Francisco 4, Calif.

315
#70
3-10-81 (c.r.)

PLAINTIFF'S EXHIBIT #70 5-27-81

Every question must be answered fully to avoid further correspondence. FAILURE TO FILE IS A MISDEMEANOR SUBJECT TO MAXIMUM FINE OF $100. (Labor Code, Sections 6407-6413)

Please make this report in DUPLICATE so that we can file copies with Division of Labor Statistics and Research in your behalf. Every work injury to an employee which causes disability lasting longer than the day of the injury or which requires medical services other than first aid treatment must be reported within five days after the injury. If the injury results in death, a report must be made by telephone or telegraph direct to the Division of Labor Statistics and Research not later than 24 hours after death.

DO NOT WRITE IN THIS COLUMN: Case No. | Employer No. | Industry | Age | Sex and Marital Status | Weekly Wage | County | Accident Date | Occupation | Accident Type | Agency | Agency Part | Work Before | Weeks Ago | Previous Date | Hours of Injury | Location | Hours of Labor | Insurance Carrier | Report Log

EMPLOYER

1. Name (Give name under which business is conducted) Armstrong Cork Co.
2. Office address (No. and Street) 1355 Market Street (City or Town) San Francisco, Calif.
3. Nature of business (Manufacturing mines, retailing store, clothing, trucking for hire, etc.) Industrial Insulation

INJURED EMPLOYEE

4. Name Jack Cuthbertson Soc. Sec. No. 572-24-8228
5. Address (No. and Street) 2284 Hollenbeck Drive (City and State) Concord, Calif.
6. Age 26 7. Sex Check (✓) Male ✓ Female ____ 8. Check (✓) Married ✓ Single ____
9. Number of hours worked per day 8 per week 40 Number of days worked per week 5
10. Wages $ 3.175 per hour, or $ 25.40 per day, or $ 127.00 per week. (If earnings at irregular rates, such as piece work or on commission basis, enter actual average weekly earnings for representative period not to exceed one year.)
11. If board, lodging, or other advantages furnished in addition to wages, give estimated value $ VARIED per day, or $ ____ per week.

ACCIDENT

12. Place of accident (No. and Street) UNKNOWN (City or Town) ____ (County) ____
13. On employer's premises? (Yes or No) ____ 14. Department ____
15. Date of accident ____ 16. Hour of day ____ A.M./P.M. 17. Did injury result in disability beyond day of accident? (Yes or No) ____ 18. If yes, give date last worked ____ 19. Was injured paid in full for this day? (Yes or No) ____ 20. If injured in a mine, check (✓) surface or underground. Surface ____ Slope ____ Underground ____ Shaft ____

CAUSE OF ACCIDENT

21. Occupation (Job title) ASBESTOS WORKER 22. How long employed by you in this occupation? Check (✓) Less than 6 months ____ 6 months to 1 year ____ over 1 year ✓ 23. What was employee doing when accident occurred? (Describe fully, such as: loading truck, operating drill press, shoveling dirt, walking down stairs, etc.) INSULATING PIPES, DUCTS, AND EQUIPMENT
24. How did the accident happen? (Describe fully, stating whether the injured person fell, was struck, etc.; give all factors contributing to accident. Use other side of report for additional space.) ALLEGEDLY CAUSED "ASBESTOSIS" DUE TO WORKING WITH INSULATION MATERIAL. EMPLOYEE VOLUNTARILY QUIT ON 7-14-54 FOR SIMILAR TYPE OF WORK WITH ANOTHER EMPLOYER.
25. What machine, tool, substance, or object was most directly related to the accident? (Name the specific machine, tool, appliance, liquid, etc., involved)
26. If mechanical apparatus or vehicle, what part of it? (State if crank, pulley, power, etc.)
27. Were mechanical guards, or other safeguards provided? (Yes or No) ____ 28. Was injured using them? (Yes or No) ____
29. What do you recommend for preventing this type of accident? (State the specific preventive measures that can be taken by employer and workers. Do not say, "by being more careful." Specify what should or should not be done)

NATURE OF INJURY AND PART OF BODY AFFECTED

30. (Describe in detail the nature of the injury and its part of the body affected. For example: amputation of right index finger at second joint, fracture of ribs, back poisoning, dermatitis of left hand, etc.) UNKNOWN
31. Name and address of physician ____
32. Name and address of hospital ____
33. Has employee returned to work? (Yes or No) ____ 34. If yes, give date ____ 35. At what wage? $ ____ per ____
36. Did injury result in death? (Yes or No) ____ 37. If yes, give date ____
38. In case of death, give name and address of nearest relative ____
39. Names and addresses of witnesses ____
40. Is injured related to Employer? No If so, how? ____

Date of this report 11-10-54

Signed by John E. Murphy Official position Comp. Inv. Supt.
(Signature)

Filing of this report is not an admission of liability. "... No report of injury required to be filed by an employer or an insurer by this chapter shall be admissible as evidence in any adversary proceeding before the Industrial Accident Commission." Labor Code, Section 6412.

C-4287 Rev. 7-53 (Revised to 8-1-54)

PLAINTIFF'S EXHIBIT Z-1-2c

PLAINTIFF'S EXHIBIT F-112

Blumberg No. 5113

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 NLS

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
DEFENDANTS' 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

000003

FORM 38 (REV 3-60)

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 [illegible]. ANKELE, Referee

ORTHOPEDICS

JOSEPH OLSEN, M. D.
HAROLD J. EISENBERG, M. D.
5052 - E. 14TH STREET
OAKLAND 1, CALIFORNIA
KELLOG 4-4602

Sept 7, 1960

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

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

ORTHOPEDICS

JOSEPH OLSEN, M. D.
HAROLD J. EISENBERG, M. D.
3033 E. 14TH STREET
OAKLAND 1, CALIFORNIA
KELLOGG 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

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 injected. 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 shoed nothing abnormal on visual inppection.

Circumferential measurements were:
Left calf 14-3/4
Right " 15-1/2
(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

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.

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 posticus 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 ofthis 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 recorcs which I have reviewed. At any rate, the patient had considerable post injury difficulty because of the onset of Sudex neurovascular distrophy 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

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,

Harold J. Eisenberg, M.D.

HJE:RH

MELVIN T. HURLEY, M. D.
160 BROADWAY
RICHMOND 5, CALIFORNIA
BEACON 2-0316
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 be 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:

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 NR 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 NR 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.

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 apprently 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 malfunction 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

RE: Claim No. 57-51-2039
Robert Cuthbertson vs.
Plant Asbestos 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, M.D.

MTH:ACP

JUN 4 1959

MELVIN T HURLEY, M. D.
160 BROADWAY
RICHMOND 5, CALIFORNIA
BEACON 2-0319
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

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

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 underobservation 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

JUN 4 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, M.D.

TMH:ACP

MELVIN T HURLEY, M D
1 & O BROADWAY
RICHMOND 8, CALIFORNIA
BEACH 9-0319
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.
160 BROADWAY
RICHMOND 3, CALIFORNIA
[illegible]

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

MELVIN T. HURLEY, M. D.
180 BROADWAY
RICHMOND 8, CALIFORNIA
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

INDUSTRIAL INDEMNITY COMPANY

DOCTOR'S SUPPLEMENTAL REPORT

Melvin T. Hurley, M. D.
160 Broadway
Richmond 2, California

December 30, 1957

INDUSTRIAL INDEMNITY COMPANY
268 Grand Avenue
Oakland, California

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 M.D.

Address 160 Broadway, Richmond, California

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

FORM 2065 RS 0AK

000020

MELVIN T. HURLEY, M. D.
160 BROADWAY
RICHMOND 2, CALIFORNIA
BEacon 8-0318
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 Priscoline 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 Priscoline 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, M.D.

MTH:ACP

MELVIN T. HURLEY, M. D.
160 BROADWAY
RICHMOND 2, CALIFORNIA
SCHOOL 8-0 3116
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

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 vasodilitation 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

A. R. THOMPSON, M. D.
917 THE ALAMEDA
BERKELEY 7, CALIFORNIA

May 31, 1957

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

Attention Mr. Wisecarver

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 xrays 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 Herrick 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.

FOR COMPANY USE
1 Loc. Code
2 Inj. Code
4 Occ. Class
5 Med. Class

DOCTOR'S FIRST REPORT OF WORK INJURY

INDUSTRIAL INDEMNITY COMPANY

260 GRAND AVENUE
OAKLAND 10
TEmplebar 2-3102

Immediately after first examination mail one copy directly to the DIVISION OF LABOR STATISTICS AND RESEARCH, P. O. BOX 603, 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
3 Ext. of Inj.
6 Silicosis
7 Federal
8 Subrogation
Indemnity
Medical
Total

Do not write in this space

1. EMPLOYER Plant Asbestos Company
2. Address (No. St. & City) 1300 64th St. Emeryville, Calif.
3. Business (Manufacturing store, building con-struction, jobbing, num's plumber, etc.) Insulation

4. EMPLOYEE (First name, middle initial, last name) Robert Cuthbertson
5. Address (No. St. & City) 2438 Garvin Ave. Richmond Phone No Re-4-5847
6. Occupation Insulation Worker Age 28 Sex M
7. Date injured 5-23-57 Hour 8:15A.M Date last worked 5-23-57
8. Injured at (No. St. & City) Bayfair Shopping Center County Alameda
9. Date of your first examination 5-23-57 hour 11:30A.M. Who engaged your services? Inj.
10. Name other doctors who treated employee for this injury Leon R. Rudnock, M.D. 15921 E. 14th St. Oak.

11. ACCIDENT OR EXPOSURE: Did employee notify employer of this injury? Yes Employee's statement of cause of injury or illness: 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.

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.)
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 curtches.

13. X-rays: By whom taken? (Name of exam.) L.R.Rudnock,M.D. 15921 E. 14th St. Oak.
Findings: Reportedly negative.

14. Treatment: Elevation, rest and Compresses.

15. Kind of case (Office, home, or hospital) Office If hospitalized, date Estimated stay
Name and address of hospital
16. Further treatment (Estimated frequency and duration) 2 weeks- 3 times
17. Estimated period of disability for: Regular work 2 weeks Modified work
18. Describe any permanent disability or disfigurement expected (Name of exam.) None
19. If death ensued, give date

20. REMARKS (Note any pre-existing injuries or diseases, need for special examination or laboratory tests, other pertinent information.)
Given a "shot" of Tetanus at Dr. Rudnecks' Office.
Rx Emp. Cod #3. # 36 Sig: prn pain.

Name A.R.Thompson (Type or print) Degree M.D. PERSONAL SIGNATURE OF DOCTOR A.R.Thompson

Date of report 5-23-57 Address (No. St. & City) 917 Tho. Alameda Berkeley 7 Phone No Lan.6-1051

Use reverse side if more space required

000935

Form 5078 - 56-8

FOR COMPANY USE
1 Loc. Code
2 Inj. Code
4 Gov. Class
6 Man. Class

DOCTOR'S FIRST REPORT OF WORK INJURY

INDUSTRIAL INDEMNITY COMPANY

330 SANSOME STREET
SAN FRANCISCO 6
YUkon 6-2000

Immediately after first examination mail one copy directly to the DIVISION OF LABOR STATISTICS AND RESEARCH, P. O. BOX 603, SAN FRANCISCO 1. Failure to file a report with the Division is a misdemeanor. (Labor Code, Sections 6407-6413.) Answer all questions fully.

FOR COMPANY USE
8 Ext. of Inj.
5 Illinois
7 Federal
8 Subrogation
Indemnity
Medical
Total

1. EMPLOYER ..... Plant Asbestos
2. Address (No. St. & City) .....
3. Business (Manufacturing plant, building, mine, mercantile, machine shop's number, etc.) .....

4. EMPLOYEE (First name, middle initial, last name) Robert F. Cuthbertson
5. Address (No. 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 (No. St. & City) 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 exposure.) 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 ~~axk~~ 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? (Give name) 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 tenciform bone.

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

15. Kind of case (Office, home or hospital) Office If hospitalized, date ..... Estimated stay .....
Name and address of hospital .....
16. Further treatment (Estimated frequency 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 injuries or diseases, 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.

William Rudnick M.D.

Name Leon R. Rudnick, M. D. Degree ..... (Type or print) personal signature of doctor Leon R Rudnick MD
Date of report 6/1/57 Address (No. St. & City) 15921 E. 14th St. San Leandro Phone No. LL.1-6813

Use reverse side if more space required

Before the Industrial Accident Commission
of the State of California

RECEIVED
AUG 22 1960
Industrial Accident Commission
Oakland Office

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

ANSWER

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

ROBERT F. CUTHBERTSON 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 $ 405.72 @ $ 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

Form 36 (REV. 11-59)

000227

STATE OF CALIFORNIA

INDUSTRIAL ACCIDENT COMMISSION

ROBERT F. CUTHBERTSON, *Applicant*

vs.

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, documentary, medical reports, payrolls, and other essential 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 as 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

FORM 38-OAK. (REV. 2-60)

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL ACCIDENT COMMISSION

RECEIVED
JUL 28 1960
Industrial Accident Commission
Oakland Office

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

APPLICATION

CASE NO. 60 OAK 3513

ROBERT F. CUTHBERTSON (Applicant) — 2436 Garvin Ave. (Applicant's address), Richmond, California — Security No.

vs.

PLANT ASBESTOS CO. (Employer) — 1351 Ocean Ave. (Employer's address), Emeryville, California

INDUSTRIAL INDEMNITY CO. (Employer's insurance carrier) — 268 Grand Ave. (Insurance carrier's address), Oakland, California

1. Robert F. Cuthbertson (name of employee), May4,1928 (date of birth), alleges that while employed on 5/23 (date of injury) 19 57 as a insulator (occupation at time of injury) at Oakland (city, town or place where injury occurred), California, by Plant Asbestos (name of employer), he sustained injury arising out of and in the course of the employment, as follows:

fell (explain how injury was received) resulting in

left ankle injury (state what parts of body were injured and nature of injury received)

2. Industrial Indemnity Co. (name of insurance company co. if employer was not insured, state whether self-insured or uninsured) was the employer's insurance carrier on date of injury.

3. _____ (nature and cause due to the injury) _____ (date missed returned to work) _____ (date last medical performed)

4. Was compensation paid? Yes (yes or no) $_____ (total paid) $_____ (weekly rate) _____ (date of last payment)

5. Earnings at time of injury $ Max. (month or week) @ _____ The basis of pay was _____ (state per hour or month rate, hours a day and days a week)

6. Was medical treatment needed? _____ (yes or no) Who furnished treatment? _____

(give names of doctors who treated the injury and state who paid their bills)

7. This application is filed to determine liability for:

a. Temporary disability _____ (yes or no) b. Permanent disability Yes (yes or no) c. Medical treatment Yes (yes or no) d. Medical costs _____ (yes or no)

e. Litigation expense _____ (yes or no) f. _____ (state any other claims)

8. 59 OAK 1053 (last case number of any other applications filed)

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 proper under the Workmen's Compensation Laws of California.

Dated at 7/26/60 (date), California, Oakland (city)

Hearing requested at Oakland (city)

Number of witnesses 1

Estimated time of trial ½ hour

R M Cuthbertson
(Applicant's signature)

Smith, Parrish, Paduck & Clancy
(Applicant's attorney)

501 Financial Center Bldg.
(Attorney's address and telephone number)

Served on:
EE ✓ EEA
ER ✓ ERA
INS ✓ INSA
___ ___ By JC Date 8-9-60

FOR OFFICE USE ONLY

000000

NOTE—Please type name of city where reading is required. Case will be set for city convenient or nearest applicant's city. If possible, date agreed on between parties should be given, and an estimate of the time required for examination of whole file and an allowance to complete case without a continuance.

NOTE—Under the provisions of the Workmen's Compensation, Insurance and Safety Laws, the applicant need only state the general nature of the claim in controversy. Upon application a case will be set, and copies of applicant's file may be filed with or mailed to the address of the nearest office of the Industrial Accident Commission without delay. The notice will thereafter be given the time and place of hearing. Either party may be represented at hearing, by attorney or other agent.

B 54 (REV. 8-60)

INDUSTRIAL INDEMNITY COMPANY

Oakland Office: 268 Grand Avenue, Oakland 10, California
Telephone TEmplebar 2-2801

September 20, 1960

Industrial Accident Commission
1111 Jackson Street
Oakland, California

SUBJECT: Robert Cuthbertson 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

MEMBERS OF FIRM
EDWIN A. CLANCY, JR.
JOHN B. LEWIS
C. PAUL PADUCK
WM. SHARROS PARRISH
JOSEPH EDWARD SMITH
BEAN W. WRIGHT

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING · 508-14TH STREET · OAKLAND 12, CALIFORNIA

September 8,1960.

Industrial Accident Commission
~~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 which we 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,

SMITH, PARRISH, PADUCK & CLANCY

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

INDUSTRIAL INDEMNITY COMPANY

San Francisco Division: 350 Sansome Street, San Francisco 4, California
Telephone YUkon 6-2000

August 19, 1960

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

PRM:mac
Encl.
cc: Smith, Parrish, Paduck & Clancy
501 Financial Center Building
Oakland, California

OFFICIAL ADDRESS RECORD

DATE OF SERVICE		
	Lien Claimant	
	Applicants	
✓ ✓ ✓ ✓	Robert F. Cuthbertson	2438 Garvin Ave., Richmond
	Attorney for Applicant	
✓ ✓ ✓	Smith & Parrish	501 Financial Centre 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 Union Mutual Life Ins. Co.	Dismissed 12-2-57 ~~100 Sansome St., S. F.~~
✓ ✓ ✓	Travelers Insurance Company	315 Montgomery St., S.
✓ ✓ ✓	Pacific Employers Ins. Co.	244 Pine St., S. F.
✓ ✓ ✓	State Compensation Ins. Fund	450 McAllister St., S
✓ ✓ ✓	Standard Accident & Indemnity Ins. Co.	433 California St.,
✓ ✓ ✓	Industrial Indemnity Company	350 Sansome St., S.
	Attorney for Insurance Company	
✓ ✓ ✓	Hanna & Brophy	100 Bush St., S. F.
✓	Mullen & Filippi	915 Montgom
	Others	

OFFICIAL ADDRESS RECORD

SERVICE AND DATE				
7-8-57	DEC 13 1957	2-12-58		
			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 12-22-57 Union Mutual Life Ins. Co.	100 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.)

To: WCAB – OAKLAND

Date: 4/12/78

From: Beverly Emerson
WCAB - SAN FRANCISCO

Phone: 557-0680

Subject: ARCIVES 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 59OAK 9053, 60AK 3913

EVERETT, Allan 63OAK 11139

Ordered 4-13-78

THANKS

STATE OF CALIFORNIA

099095

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, INDUSTRIAL INDEMNITY COMPANY, PACIFIC EMPLOYERS INSURANCE COMPANY, STANDARD ACCIDENT INSURANCE COMPANY, and STATE COMPENSATION INSURANCE FUND)
Defendants)

DECISION
AFTER RECONSIDERATION

FILED
JAN 4 - 1961
DATE
BY

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 CAUSE APPEARING THEREFOR,

IT IS ORDERED that the Findings and Order, filed herein December 15, 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. Lawrence

Commissioners

SERVED
EE ✓ PE
JAN 4 1961
CR ✓ ✓ K
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Ref. Dunn

FORM 338

C99033

JAN 4 1961

ROBERT F. CUTHBERTSON vs. PLANT ASBESTOS COMPANY, et al

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. Laurent

Elton C. Lawson

Commissioners

COPY

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, Referee

CMD bw

RECEIVED
DEC 13 1960
Panel

Q9906S

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 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.)

CLAUD M. DUNN, Referee

C:D:lo

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

ROBERT P. 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 represented by Mullen & Filippi, Attorneys (John Moore appearing)

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

Defendant carrier State Compensation Insurance Fund represented by James Vonk, Attorney

WITNESS: Sidney J. Shipman, M.D.

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

7-6-60 26pp

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 1053

Notice of Time and Place of Further Hearing

FILED
MAY 16 1960
Per

NOTICE TO ALL PARTIES

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

ROOM 2302
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 4, Calif.
Hanna & Brophy, 100 Bush St., San Francisco, Calif.
Mullen & Filippi, 315 Montgomery St., San Francisco 4, Calif.
Standard Accident Insurance Co., 433 California St., S.F., Calif.

FORM 400 (REV. 8-60) AR

FILED
MAY 4 1960

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

F A Gouveia

Elton C. Lawler

Commissioners

SERVED
EE ✓ EEA ✓
MAY 4 1960
FR ✓
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Ref. Article

000012

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, PACIFICAEMPLOYERS INSURANCE COMPANY, STANDARD ACCIDENT INSURANCE COMPANY, and STATE COMPENSATION INSURANCE FUND,

Defendants

Case No. OAK 1053

NOTICE OF INTENTION TO SUBMIT

FILED
APR 11 1960
Date
By

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

Elton C. Lawson

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., 350 Sansome Street, S.F.

Ex'd Served
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Form 10 (REV. 1-60)

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

RECEIVED
APR 5 1960

From: Sidney J. Shipman, M. D.

Concerning: Robert P. 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.

000013

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 gr Erythrocytes 5,010,000. Color index .88. Slight achromin. Leukocytes 9,800. Neutrophils 67%, of wich 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.

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 convalescense 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 1.

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,

Sidney J. Shipman, M. D.

INDEPENDENT MEDICAL EXAMINER

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

Suite 1049 Phone DOuglas 2-7777

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

Date March 18, 1960

Patient Robert Cuthbertson

Doctor Shipman

Request Wassermann

Kolmer Negative

VDRL Negative

Lucien D. Hertert

C09713

Suite 1049 Phone DOuglas 2-7777

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

Date March 18, 1860

Patient Robert Cuthbertson

Doctor *Shipman*

COMPLETE BLOOD COUNT

Hemoglobin	88 %	Leukocytes	9,800
14.8 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. Herterт

SUITE 1040 PHONE DOUGLAS 2-7779

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

DATE March 18, 1960

PATIENT Robert Cuthertson

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. p. f.
Sugar	"	R. B. Cells	None seen
Bile Pigments	"	Crystals	"
Acetone	"	Amorphous Sediment	
Diacetic	"		"

Remarks:

Lucien D Herter

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

...HERS
...IP FIRM

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

FINANCIAL CENTER BUILDING · 405-14TH STREET · OAKLAND 12, CALIFORNIA

GLENCOURT 2-2000

March 16, 1960

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

JES:mr

Joseph E. Smith

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:

11/1/60

LAW OFFICES OF
HANNA & BROPHY
1940 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-5000

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

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG.
FRESNO 21, CALIF.

SACRAMENTO OFFICE
926 J STREET
SACRAMENTO 14, CALIF.

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

March 11, 1960

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,

Irwin A. Schwab

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)

RECEIVED

MAR 10 1960

Department of Industrial Relations
DIVISION OF INDUSTRIAL

ORD GRANTING CEJON 1-29-60

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. OAK 1053

ROBERT F. CUTHBERTSON,

Applicant,

vs.

PLANT ASBESTOS COMPANY, et al,

Defendants.

MOTION TO STRIKE

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

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

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

STATE COMPENSATION INSURANCE FUND

By James H. Burdell
Attorney

Dated: March 9, 1960

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

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

c - Mullen & Filippi
Attorneys at Law
315 Montgomery Street
San Francisco, California

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

c - Claims Department
JVB:rl

Fad

000023

Industrial Accident Commission
RECEIVED
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 Commission for its consideration.

E. NEELY
Referee

Dated this 8th day of March, 1960

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_____ SUIF_____

Form 268 (REV 10-57)

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.

Attached is medical report/submitted by applicant as well as Dr. Roger H.L. Wilson-2/9/60 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 808 This information has not been conveyed to the Medical Bureau by this office.

MEMBERS OF FIRM
EDWIN A. CLANCY, JR.
JOHN S. LEWIS
C. PAUL PADUCK
WM. SHARROR PARRISH
JOSEPH EDWARD SMITH
DEAN W. WRIGHT

LAW OFFICES OF
SMITH, PARRISH, PADUCK & CLANCY
FINANCIAL CENTER BUILDING • 405-14TH STREET • OAKLAND 12, CALIFORNIA

original recon 1-29-60

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,

JOSEPH E. SMITH

Encl:
JES:rb

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

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

1000 VAN NESS AVENUE
SAN FRANCISCO 9, CALIF.
TELEPHONE ORDWAY 3-5000

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 Crenshaw, M.D.

RECEIVED
MAR 1960
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS

ORD. GRANTING RECON 1-29-60

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. OAK 1053

ROBERT F. CUTHBERTSON,

Applicant,

vs.

PLANT ASBESTOS COMPANY, et al,

Defendants.

MOTION TO STRIKE

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

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

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

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

BY: John W. Moore
JOHN W. MOORE

Dated: March 4, 1960

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

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

State Compensation Insurance Fund
450 McAllister St., San Francisco

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

Pacific Employers Insurance Co.
3770 Piedmont Avenue, Oakland 11

MULLEN & PILIPPI
ATTORNEYS
110 MONTGOMERY ST.
SUITE 1, MONTGOMERY
EXBROOK 2-7201
SAN FRANCISCO 4
4/60 tjo

000023

INDUSTRIAL INDEMNITY COMPANY

San Francisco Division: 350 Sansome Street, San Francisco 4, California
Telephone Yukon 6-2000

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

conjectural inasmuch as the doctor has not examined the above-named applicant and has not revieved 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
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

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING · 405-14TH STREET · OAKLAND 12 CALIFORNIA

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,

JOSEPH E. SMITH

Encl:
JES:rb

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

SEYMOUR M FARBER M D
MORTIMER A SENIOFF M D
ROGER H L WILSON M D

February 9, 1960

Joseph A. 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, M.D.

CC: Gerald Crenshaw, M.D.

000032

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

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

LAW OFFICES OF
HANNA & BROPHY
1940 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-8888

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG.
FRESNO 21, CALIF.

SACRAMENTO OFFICE
926 J STREET
SACRAMENTO 14, CALIF.

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

February 26, 1960

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

Attention: Edward C. Neely
Referee in Charge

Re: Robert P. 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 13, 1958.

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,

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 60-71-1671)
c.c. Travelers Insurance Co.
Oakland (B-8972691)
c.c. Standard Acc. Ins. Co.
San Bruno (96-C 960794)

CADOT BROWN, M.D
460 SUTTER STREET
SAN FRANCISCO 8

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. Cadot Brown:
11/19/59 - stereo and lateral

Yours very truly,

Mrs. Lois Cleveland
Secretary

Form 879

DEPARTMENT OF INDUSTRIAL RELATIONS

Intra-Departmental Communication

To: Edward Neely, Presiding Referee Date: 2-16-60
Division: Industrial Accident Commissio Location: San Francisco

From: Frank A. Lawrence, Presiding Commissioner
Division: Industrial Accident Commissio 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.

F A Lawrence

Frank A. Lawrence
Presiding Commissioner

000035

INDUSTRIAL INDEMNITY COMPANY

San Francisco Division: 350 Sansome Street, San Francisco 4, California
Telephone YUkon 6-2000

February 11, 1960

OPP GRANTED
RECON 1-29-60
2-16-60

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. OAK 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: Hannn and Brophy
100 Bush Street
Oakland, California
cc: Millen & Filippi
315 Montgomery Street
San Francisco, California
cc: State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE

CLAIM NO. OAK 1053

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 examiner.

Dr. Cabot Brown was agreed upon as an "agreed medical examiner" in the stead and the place of an "independent medical examiner" 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 answering defendant the Award be affirmed and the applicant ordered to

MULLEN & FILIPPI
ATTORNEYS
310 MONTGOMERY ST.
SUITE 1, MONTGOMERY
EXCHANGE BUILDING
SAN FRANCISCO 4

000038

take nothing.

To follow the procedure suggested herein would make it possible for an independent examiner upon independent examiner to be appointed until grounds are found for the applicant's contentions.

Respectfully Submitted:

MULLEN & FILIPPI, Attorneys for
Pacific Employers Insurance Company

By _____
W. N. Mullen

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

Copies this date mailed to:

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

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

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

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

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

MULLEN & FILIPPI
ATTORNEYS
310 MONTGOMERY ST.
SUITE 1, MERCHANTS
EXCHANGE BUILDING
SAN FRANCISCO 4

000033

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

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

LAW OFFICES OF
HANNA & BROPHY
1940 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-6660

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
2000 MEDDING STREET
SAN JOSE 28, CALIF.

RECEIVED
FEB 8 - 1960
Department of Industrial Relations
DIVISION OF INDUSTRIAL ACCIDENTS

February 8, 1960

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:

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"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.

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,

Irma 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)

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

Dated

Commissioners

FORM 338

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JAN 29 1960

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

Commissioners

RECEIVED

JAN 22 1960

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

INDUSTRIAL INDEMNITY COMPANY

San Francisco Division: 350 Sansome Street, San Francisco 4, California
Telephone YUkon 6-2000

January 13, 1960

Industrial Accident Commission
577 - 14th Street
Oakland, California

Re: Robert F. Cuthbertson 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

PATRICK R. MALONEY
Attorney at Law
Suite 700
350 Sansome Street
San Francisco 4
YUkon 6-2000

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF
THE STATE OF CALIFORNIA

ROBERT F. CUTHBERTSON,

Applicant,

vs.

PLANT ASBESTOS COMPANY, INDUSTRIAL INDEMNITY COMPANY, et al,

Defendants.

I.A.C. NO. 59 OAK 1053

ANSWER TO PETITION FOR RECONSIDERATION

Comes now the Defendant, INDUSTRIAL INDEMNITY COMPANY, and by way of Answer to the Petition for Reconsideration filed herein specifically denies that:

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.

In his Petition for Reconsideration, the Applicant objected to the finding of fact that he did not sustain an injury arising out of or occurring in the course of his employment. In support of his contention, the Applicant states that Dr. Cabot Brown, the agreed medical examiner, did not obtain independent pathological studies. The petition is not clear as to what purpose such studies would serve and it may be helpful at this point to clarify the record.

First of all, Mr. Schwab, in arranging for the examination by Dr. Brown in his letter of November 12, 1959, authorized Dr. Brown to make use of the service of a Roentgenologist or a pathologist if he deemed it necessary. With the records and information available to Dr. Brown, he quite properly concluded that it was not necessary to obtain an additional pathological examina-

tion.

A review of the record shows that the applicant's own doctor made use of Dr. David Singman as a pathologist. This doctor performed his studies at the time the applicant was examined on December 8, 1958 at the request of Dr. Crenshaw. Dr. Singman testified that the applicant did have asbestos in the lungs but not enough to show in ordinary X-ray technique.

The Defendant's doctor, H. Corwin Hinshaw, M.D., and the Defendant's pathologist, George Watson, M.D. also found asbestos particles in the lungs. The important point here, however, is not the presence of asbestos fibers in the lungs but rather the presence of such fibers as cause disabling pulmonary disease. The Petition for Reconsideration, therefore, is not clear as to what purpose an additional examination will serve inasmuch as there already is an agreement amongst the pathologists that the applicant did have asbestos fibers in the lung.

The crux of the problem in this case is whether the Applicant had disabling pulmonary disease or asbestosis and not whether there were asbestos fibers in the lung. As pointed out by Dr. Cabot Brown on page 3 of his report of November 19, 1959:

> "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 to a searching examination. However, the difference between these individuals and those who have well developed clinical asbestosis lies merely in the <u>total amount</u> of exposure. ***"

The Applicant's contentions are apparently based upon the testimony of Dr. Crenshaw. Keeping in mind that 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, let us examine the testimony of Dr. Crenshaw.

According to Dr. Crenshaw, a complete work history was not taken of

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the Applicant. The doctor testified that he had treated the Applicant's brother approximately five years ago and he felt that a history of asbestos exposure was unnecessary in view of the fact that the doctor had already obtained a work history from the brother. It is to be noted that INDUSTRIAL INDEMNITY COMPANY was the Workmen's Compensation Insurance carrier for PLANT ASBESTOS COMPANY from January 1, 1952 to January 1, 1959. The doctor neglected to even obtain a work history of exposure to asbestos during a substantial portion of the applicant's employment with PLANT ASBESTOS COMPANY while INDUSTRIAL INDEMNITY COMPANY was the carrier.

It is further to be noted that the doctor did not even make a study of the type of asbestos material used by the Applicant in his employment with PLANT ASBESTOS COMPANY. It is further to be noted that the doctor testified that this is the third asbestosis case that he has had in his experience. It can be inferred, therefore, that Dr. Crenshaw's diagnosis appears to be speculative and conjectural because he did not take an accurate work history of the Applicant's exposure to asbestos and did not take any samples of the material used by the Applicant.

It is also clear from the record that the Applicant does not have any objective evidence of impaired pulmonary function, nor is there radiological appearance consistent with pulmonary fibrosis. Dr. Cabot Brown in his report of November 19, 1959 points out that these are essential elements for a clinical diagnosis of asbestosis. In his summary and conclusions on page 2 of his report of November 19, 1959, Dr. Brown points out:

> "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 forms of pneumonoconiosis. Limited pulmonary function studies gave normal findings, as did physical examination."

According to Dr. Crenshaw, the Applicant's doctor, the only factor of disability consists of improper bronchial drainage. There is no testimony by Dr. Crenshaw or any other evidence in the record to indicate that this drainage problem is in any way disabling or that this problem is causing an impairment of pulmonary function.

It is also obvious from the record that there is no radiological evidence of pulmonary fibrosis. Dr. Singman, the Applicant's pathologist, testified at the hearing that there was asbestos in the lungs according to the submitted samples taken on December 8, 1958 but there was not enough to show in ordinary X-ray technique. The doctor further testified that fibrosis is usually found in asbestosis cases and generally the particles can be seen. He also testified that most of the noxious agents that affect the lung will cause fibrosis. It is obvious, therefore, that there was no X-ray evidence of disabling pulmonary disease in this case according to the Applicant's own pathologist. Dr. Hinshaw in his report of September 22, 1959 also concludes that the X-ray examinations demonstrate no progressive pulmonary disease.

It is also submitted that there is no showing by the Applicant that the lung biopsy which was performed by Dr. Crenshaw as a diagnostic measure, according to his testimony, was in any way necessary or justified. As pointed out earlier, the record shows that there is no clinical evidence of disabling pulmonary disease present prior to the performing of the operation. Dr. Crenshaw did not perform pulmonary function tests prior to the operation although such tests were performed post operatively. As pointed out by Dr. Hinshaw in his report of October 12, 1959:

> " *** 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."

Dr. Cabot Brown, the agreed medical examiner, also points out on the last page of his report that apparently pulmonary function tests were not performed prior to surgery and the doctor cannot understand why the Applicant's doctor belittles the significance of such function tests which are essential to determine the amount of pulmonary disability present.

The Applicant has therefore failed to show that the biopsy performed in this case was necessary to cure and relieve from the effects of his injury inasmuch as standard clinical and functional tests were not performed prior to surgery. If such tests were performed, it is obvious that there would be no necessity for the biopsy because the doctor would have found that there was no

disabling pulmonary disease present according to clinical tests. In this particular case, the operation has resulted in approximately two months of disability to the Applicant along with an expensive hospital bill. There is an insufficient showing in the record that such major surgery was necessary in order to cure and relieve from the effects of injury.

It is also submitted that if the Applicant felt that an independent pathological examination would be helpful in this case, he could have raised this question immediately after the filing of Dr. Brown's report at the Commission and he could have requested to cross-examine the doctor on that point. The report was filed into the record with no objection raised by anybody and now, at this late date, the applicant is attempting to obtain additional delay and time in this case for the obtaining of examinations and reports which could easily have been obtained prior to the submission of the case. As pointed out earlier, it is also not clear from the record what purpose such studies would be inasmuch as studies were conducted by his own doctor and by Defendant's doctor and both studies indicated that there were asbestos fibers present in the lung.

It is therefore obvious that the Applicant has failed to establish a case inasmuch as there is no showing that the applicant had disabling pulmonary disease or asbestosis. There is also no showing that the major surgery performed upon the Applicant as a diagnostic measure was necessary to cure and relieve from the effects of the alleged injury herein.

WHEREIN, INDUSTRIAL INDEMNITY COMPANY contends that the Findings and Award heretofore issued in this matter is proper in all respects, and prays that the Petition for Reconsideration be denied and that said Findings and Award be affirmed.

Dated: January 13, 1960

Patrick R. Maloney

PATRICK R. MALONEY,
Attorney for Defendant
INDUSTRIAL INDEMNITY COMPANY

State of California }
City and County of San Francisco } ss.

PATRICK R. MALONEY, first being duly sworn, deposes and says:

That he is one of the attorneys for Petitioner INDUSTRIAL INDEMNITY COMPANY, one of the defendants herein, and that he is verifying the foregoing Answer to Petition for Reconsideration for said defendant for the reason that he is more familiar with the facts stated therein than are the officers of said defendant and that said facts are within his knowledge; that he has read the foregoing Answer to Petition for Reconsideration and knows the contents thereof and that the same is true of his own knowledge and belief except as to the matters therein stated on information or belief, and as to those matters he believes it to be true.

Patrick R Maloney
PATRICK R. MALONEY

Subscribed and sworn to before me
this 14 day of January 1960.

NOTARY PUBLIC
In and for the City and County of
San Francisco, State of California
My Commission Expires November 18, 1960

000032

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. 59 OAK 1053

ROBERT F. CUTHBERTSON,

Applicant,

vs.

FLANT ASBESTOS, et al, and UNION MUTUAL LIFE INSURANCE COMPANY, et al,

Defendants.

ANSWER TO PETITION FOR RECONSIDERATION

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, Decision 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 Hinshaw and Gerald Crenshaw, 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.

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 preoperative 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

that an independent pathological examination was to be had". Nothing was said about an independent pathological study until the Petition for Reconsideration. Mr. Schwab arranged for the examination by Dr. Brown and forwarded all the material to Dr. Brown. While we do not think it of great importance, we believe that the slides of the tissue were forwarded to Dr. Brown and were reviewed by him. At the end of Mr. Schwab's letter to Dr. Brown, the doctor was told "if you desire to use the services of a roentgenologist or a pathologist, you are authorized to do so". If Dr. Brown had seen fit to have additional pathological examinations, we are sure he would have so arranged. Had applicant been serious about another pathological examination, we are sure that he would then have requested Dr. Brown to have an additional pathological examination. The pathological opinions of Dr. Singman, to whom the material was referred initially by Dr. Hinshaw, and that of Dr. Watson, are not in conflict. Dr. Watson conceded the presence of asbestos fibres. Neither of the pathologists made a diagnosis of asbestosis.

The question here is not whether there was some asbestos fibres in the lung. The real question was whether there had been sufficient exposure to asbestos particles of a size and in sufficient concentration to cause the disease of asbestosis and whether the applicant was suffering from the disease of asbestosis.

It is noteworthy that Dr. Crenshaw at the hearing of October 22, 1959, could not recall the size and concentration of particles of asbestos which would be disease producing although he claimed that he had known this but was too tired to recall it. The applicant argues in effect that the finding of asbestos in the lungs necessitates the finding of asbestosis.

Dr. Brown points out, however, that:

> "A clinical diagnosis of asbestosis depends on a history of adequate exposure to asbestos dust, objective evidence of impaired pulmonary function, and radiological appearance consistent with pro-

fuse '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, would not in itself justify the clinical diagnosis of asbestosis."

Dr. Brown further pointed out that the symptoms the applicant was complaining of were not those usually found in asbestosis:

"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. Just pain is not a frequent or prominent complaint."

Dr. Hinshaw in his report of October 12, 1958, points out that:

"It must be emphasized that the presence of these fibres 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.

"Biopsies serve no useful purpose whatsoever in a situation such as this where there is no clinical, physiological or radiological evidence of disabling pulmonary disease."

This was very aptly put by Dr. Brown:

"The point I wish to stress is that the mere finding of a few asbestos fibres 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)."

In the conclusion of the Referee, it is well pointed out that the report of Dr. Brown resolved any apparent medical conflict existing in the case.

WHEREFORE, it is respectfully submitted that the Findings and Award and Order are proper in all respects and it is re-

MULLEN & FILIPPI
ATTORNEYS
SIS MONTGOMERY ST.
SUITE 1, MECHANIC
EXCHANGE BUILDING
SAN FRANCISCO 4

quested that your Commission deny reconsideration without further proceedings.

Respectfully Submitted:

MULLEN & FILIPPI, Attorneys for
Pacific Employers Insurance Company

By _____
John W. Moore

Dated at San Francisco, California, this
11th day of January, 1960.

Copies this date mailed to:

SMITH, PARRISH, PADUCK & CLANCY, Attorneys at Law,
501 Financial Center Bldg., Oakland, Calif.
HANNA & BROPHY, Attorneys at Law,
1540 San Pablo Ave., Oakland, Calif.
INDUSTRIAL INDEMNITY CO.,
350 Sansome St., San Francisco, Calif.
STATE FUND,
450 McAllister St., San Francisco, Calif.
PACIFIC EMPLOYERS INS. CO.,
244 Pine St., San Francisco, Calif.

MULLEN & FILIPPI
ATTORNEYS
615 MONTGOMERY ST.
SUITE 1, MEZZANINE
EXBROOK 2-7881
SAN FRANCISCO 6

000057

STATE OF CALIFORNIA)
) ss
CITY AND COUNTY OF SAN FRANCISCO)

JOHN W. MOORE, being first duly sworn, deposes and says:

That he is an attorney at law, admitted to practice before all Courts of the State of California, and is one of the attorneys for the defendant, Pacific Employers Insurance Company, in the foregoing proceeding; that the facts therein stated are within the personal knowledge of affiant and ~~he is authorized~~ to make this verification on its behalf; that he has read the Answer to Petition for Reconsideration and knows the contents thereof, and the same is true of his own knowledge except as to matters which are therein stated on his information or belief, and as to those, he believes it to be true.

JOHN W. MOORE

Subscribed and sworn to before me
this 11th day of January, 1960.

[illegible] NICHOLS
NOTARY PUBLIC in and for the City
and County of San Francisco, State
of California

FULLER & FILIPPI
ATTORNEYS
116 MONTGOMERY ST.
SUITE 1, MEZZANINE
EXBROOK 2-7301
San Francisco 4

000023

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION

STATE OF CALIFORNIA

ROBERT F. CUTHBERTSON,

Applicant,

vs.

PLANT ASBESTOS COMPANY, et al,

Defendants.

No. 59 OAK 1053

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

HANNA & BROPHY
1440 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-0800

upon a medical examiner, and he then entered an order holding the case open 45 days for the filing of the report from the agreed medical examiner. Irwin A. Schwab, the attorney for Standard Accident Insurance Company and Travelers Insurance Company, conferred with the attorneys representing the co-defendants, and then submitted to the attorneys for the applicant a list of four names of doctors, any one of which would be acceptable to the defendants as an agreed medical examiner. The name of Dr. Cabot Brown was among the four names submitted. On November 3, 1959, the attorneys for the applicant advised Mr. Schwab that the applicant would agree to an examination and report by Dr. Cabot Brown.

The arrangements for the examination and report were made by letter sent by Mr. Schwab to Dr. Cabot Brown, dated November 12, 1959. A copy of that letter went to the attorneys for the applicant, and a copy also went to the Industrial Accident Commission. Dr. Cabot Brown was specifically advised:

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

Dr. Brown did not consider it necessary to have any further pathological studies, and the reason why is perfectly clear when one reads his report. In his report of November 19, 1959, Dr. Cabot Brown states:

> "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 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.

HANNA & BROPHY
100 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-0860

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"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." (Emphasis added)

In his report of November 19, 1959, Dr. Cabot Brown also said:

"1. I am in complete agreement with Dr. Hinshaw's statement, which you quote."

The reference is to the following quotation, taken from the report of Dr. H. Corwin Hinshaw, dated October 12, 1959:

"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."

We respectfully submit that the Petition for Reconsideration presents nothing that has not been previously exhaustively considered by Dr. Hinshaw, Dr. Brown, and the referee, and that further studies of any type are not required.

WHEREFORE, it is respectfully prayed that the Petition for Reconsideration be denied.

DATED: January 11, 1960.

Respectfully submitted,

Hanna & Brophy

Attorneys for Standard Acc. Ins. Co. and Travelers Insurance Co.

c.c. Smith, Parrish, Paduck & Clancy
c.c. Mullen & Filippi
c.c. Standard Acc. Ins. Co. (96-C-960794)
c.c. Travelers Ins. Co. (B-8972691)
c.c. Industrial Indemnity Co., S.F.
c.c. State Fund

HANNA & BROPHY
[illegible] OLD PACIFIC AVENUE
[illegible] LONG 12, CALIFORNIA
[illegible] 2-0660

00009

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.

James A. Schuck

Dated at Oakland, California,
this 11th day of January, 1960.

HANNA & BROPHY
440 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-0060

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION

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

SMITH, PARRISH, PADUCK & CLANCY
ATTORNEYS AT LAW
601 FINANCIAL CENTER BUILDING
OAKLAND 12, CALIFORNIA
GLENCOURT 2-8000

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

1958, and Dr. Lawrence referred him to Dr. Crenshaw, a chest specialist, and the doctor placed him in Richmond Hospital on August 3, 1958, and surgery was performed on his lung at which time Dr. Crenshaw advised him that he had asbestosis which condition was caused by his work.

Dr. David Singman, defendant's witness who is a pathologist, testified that specimens of the lung were sent to the State Department of Health and are shown by the Referee's memorandum "a quantity of formed asbestos was even demonstrated in the tissue"

Further the report from the Department of Public Health dated December 31, 1958, over the signature of William Thielen definitely shows particles of and presence of asbestos in the lung.

Your attention is directed to the report namely Dr. George Watson which is set forth in the report of Dr. Otto Shaw, dated October 12th, 1959, where the pathologist states that "asbestos body disposition is moderately advanced."

The testimony of Dr. Gerald Crenshaw, chest specialist has been transcribed and your attention is directed to page 1, line 23 "Q. And in your report dated May 25, '59, you stated that the studies were made and indicated that there was evidence of asgestos in the chest? A. That is right.

Q. Do you have any opinion as to whether that asbestos was causing any disability? A. Yes, I feel definitely it is.

Q. And what disability was it causing the man? A. Improper bronchial drainage." ". . . Q. And you ultimately did some surgery on the chest? A. Yes, we took a piece of lung as a diagnostic procedure to determine the amount of scarring and fibrosis, and determine the presence of the asbestos particles." Further on page 22 of the transcript line 3 "Q. And what was your diagnosis, Doctor, immediately after the biopsy was performed?

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OAKLAND 12, CALIFORNIA
GLENCOURT 2-5000

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A. My pre-operative diagnosis based on what the history and based on his working and surrounding environment, was asbestosis. My post-operative diagnosis was the same. Dr. Lawrence Brown helped me with the surgery and collaborated. Q. And this was based upon this history and the symptoms? A. And observation, and feeling, and palpation of the lung, which to me is a most delicate and definite way of telling how badly injured the lung is. We are amazed constantly how little the X-ray shows us, those of us reading X-rays and entering chests. Q. As I recall your testimony with respect to X-rays, Doctor, you are not sure that any X-rays were taken at your office before the biopsy? A. None in my office but, of course, I wouldn't go into a chest without having seen the X-rays first. I was being equivocal because I thought you might be hedging on certain dates and certain times and making much of that, and therefore, the X-rays -- " and on line 9 page 23, "Q. Did you rule out asbestosis, Doctor? A. We ruled in asbestosis. Q. By a process of elimination, was it? A. By a pathological examination." again on line 18 page 27, "Q. Is there any evidence that there has been an extension or a change in the fibrous appearance of the lung? A. At surgery there was gross change. Q. Change as compared to what period, Doctor? A. Oh, I can only say, speak of the actual time I saw him when the chest was opened, and I had the lung in my hand. Q. Yes. When you saw it at surgery, were you able to differentiate it whether or not the appearance you saw were not -- could you differentiate between the appearance which you saw between residuals from a chronic pneumonitis or pneumonia or whether it was due to the presence or absence of asbestos materials, or whether it was due to quartz that may be in the lung? A. We couldn't tell what the substance was that produced it but we could tell there was definite destruction to this man's lungs. Q. So far as -- by your observation at surgery you knew-- A. His lungs were injured. Q. The lung had evidence

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501 Financial Center Building
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GLencourt 2-2000

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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GLENCOURT 2-8000

Dr. Brown have an independent pathological study made to determine the presence of asbestos and whether the asbestos fibres are causing an inflammation or irritation of the lung which can be classified as asbestosis and which is causing the man disatility from a pathologists stand point.

WHEREFORE, it is prayed that petition for reconsideration be granted.

Respectfully submitted

JOSEPH E. SMITH

cc: Hanna & Brophy
1540 San Pablo Ave.
Oakland

Mullen & Filippi
315 Montgomery St.
San Francisco

Industrial Indemnity
350 Sansome St.
San Francisco

State Fund
450 McAllister St.
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STATE OF CALIFORNIA }
COUNTY OF ALAMEDA } ss.

JOSEPH E. SMITH, being first duly sworn, deposes and says:

That he is the attorney for applicant in the foregoing Petition for Reconsideration; that he has read the foregoing Petition for Reconsideration and knows the contents thereof; that the same is true of his own knowledge, except as to those matters stated upon information and belief, and as to those matters he believes same to be true.

JOSEPH E. SMITH

Subscribed and sworn to before me LILLIAN HARRISON this 4th day of January, 1960.

Notary Public in and for the County of Alameda, State of California.

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FILED AND SERVED: 12-15-59
On all parties of
record--R.Crowley

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. OAK 1053

FILED
DEC 15 1959
DATE
BY

ROBERT F. CUTHBERTSON)
Applicant)
vs.)
FLINT 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)

FINDINGS AND ORDER

The above entitled matter having been regularly submitted before John H. Ankele, Referee, said Referee now makes his decision as follows:

FINDINGS OF FACT

1. The applicant was employed by the various employers above named from July, 1947 through December, 1958, and alleges that he sustained an injury arising out of and occurring in the course of his said employments, consisting of asbestosis.

2. Applicant did not sustain any injury arising out of or occurring in the course of his employments from July, 1947 through December, 1958.

3. The disability of which applicant complains was not proximately caused, or caused at all, by any injury arising out of or occurring in the course of his employments, or by his employments.

O R D E R

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

JHA:rg
OAK 1053

JOHN H. ANKELE, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

000003

JOHN H. ANKELE, 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

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 16, 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.

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.

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 (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; 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 waterproof tarpliner. 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.

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.

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 R.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 repo t 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. ANKELE, Referee

JHA:afs/ws/rc

LAW OFFICES OF
HANNA & BROPHY
1940 SAN PABLO AVENUE
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WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT N. MAC DONALD
JOHN A. MAC DONALD
EDWARD P. MC ALEER
HERBERT C. JENSEN
EDWARD W. KORAB
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THOMAS B. RICHARDSON
DONALD V. MITCHELL
GEORGE W. BONNEY

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SECURITY BANK BLDG.
FRESNO 21, CALIF.

SACRAMENTO OFFICE
926 J STREET
SACRAMENTO 14, CALIF.

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

December 3, 1959

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.F.

CABOT BROWN, M.D.
450 SUTTER 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.

CABOT BROWN, M.D.
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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 pneumonoconiosis. 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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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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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 radiolgical 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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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

Cabot Brown, M. D.

CB:C

whs 1&3

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION

OF THE STATE OF CALIFORNIA

---oOo---

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:	PAGE
Gerald L. Crenshaw, M.D.	1

FORM 518

12-3-59 Copy to Oakland Mail Room

GERALD CRENSHAW, M.D.

called as a witness on behalf of the applicant, being first duly sworn, testified as follows:

REFEREE: Have a seat. And your name, please --

Oh, somebody has that section of this hospital report. Who has that?

MR. SMITH: Has what, sir?

REFEREE: That hospital report.

(Document handed to Referee.)

REFEREE: Q And your name, please?

A Dr. Gerald Crenshaw.

Q And you're duly licensed to practice medicine in the State of California? A I am.

Q Any specialty?

A Yes, medical and surgical chest. Certified American Board of Thoracic Surgery; eligible for the American Board, American Board in Internal Medicine, and sub-board of diseases of the chest.

REFEREE: All right, Mr. Smith.

MR. SMITH: Q Doctor, excuse me -- Doctor, you had Mr. Robert F. Cuthbertson under your care for a chest condition?

A I did.

Q And in your report dated May 25, '59, you stated that the studies were made and indicated that there was evidence of asbestos in the chest? A That is right.

Q Do you have any opinion as to whether that asbestos was

causing any disability?
A Yes, I feel definitely it is.
Q And what disability was it causing the man?
A Improper bronchial drainage.
Q And did you do anything to correct or alleviate that improper --
A Yes.
Q (Continuing) -- bronchial drainage?
A Since that time we have had to treat him for this persistent upper respiratory infections well past the time of a normal individual, and recurrence of such infections productive of cough, pains in the chest --
Q And you ultimately did some surgery on the chest?
A Yes, we took a piece of lung as a diagnostic procedure to determine the amount of scarring and fibrosis, and determine the presence of the asbestos particles.
Q The man is still under your care?
A Still under my care, that is right.
Q Doctor, if the man gave a history of working in and around asbestos from '47 to '58, sometimes working in materials that had ten to twelve percent asbestos in them, and other times using what we call mud that had ten to twelve per cent asbestos in it, using other materials that may not have had any asbestos but were required to use mud that contained asbestos to join them, and that the conditions under which he workedwere dusty, do you have an opinion as to whether the asbestos that you found in his lungs could have

been contacted over that period of employment?
A Yes.
MR. SCHWAB: I will object, Mr. Referee, as not a proper hypothetical question in that it does not include all factor necessary to express an opinion such as the nature of the material, the finished material with which the man works, and what he did with it. After all a truck driver works around the asbestos if he delivers it on the job.
REFEREE: It is defective in that respect, Mr. Smith. I will let it stand, however, and it will go to the weight.
MR. MOORE: I will make the additional objection as calling for surmise and speculation.
REFEREE: That goes to the weight.
MR. SMITH: Q You say you have an opinion: what is it, Doctor?
A I feel it has. It's the only source of asbestos that this man could have, where he could have gotten it, and he has it present in his lungs at the present time; that's to my knowledge.
Q Does the man still need treatment and observation?
A He will need observation for some period of time, that is right.
MR. SMITH: I have no further questions.
REFEREE: Mr. Schwab.
MR. SCHWAB: Q Doctor, when did you first see Mr. Cuthbertson? A May I check my chart, please?

Q Yes. A July 29, 1958.
Q You had treated histwin brother in 1953, I believe.
A Yeah, his brother is not an identical twin; they're just twins.
Q No, but you had not seen Robert Cuthbertson during the time that the brother was under your care in 1953 and '54?
A To my knowledge or record I had heard of him but I had not seen him.
Q And do you have with you the history that was taken on the occasion of that first call in '58? A I have.
Q May I look at it.
(Document handed to Mr. Schwab.)
A In fact, Mr. Robert Cuthbertson was referred to me by Dr. Larry Brown because of recurrent pneumoninities and recurrent chest difficulties.
REPORTER: Doctor who?
A Lawrence Brown of Richmond, California.
MR. SCHWAB: Q When he came to you on July 29, 1958, no work history was taken at that time?
A I do not believe we have a work history taken from Mr. Cuthbertson at all.
Q You never took a work history?
A I don't think so.
Q And you did, though, at the time of that first call have a history of there having been an attack of pneumonia in

the earlier part of the year?
A Yeah, recurrent attacks of pneumonia.
Q That's right. Now, when was it that you performed your biopsy? A August 13, 1958.
Q And prior to that time had you obtained X-rays taken for Dr. A. R. Thompson at Herrick Hospital in October 1953, November 1954 and March 1956?
A All attempts were made to get old X-rays possible.
REFEREE: Will you answer the question, Doctor?
A Well, I don't have -- I don't have it.
REFEREE: The question is, Did you?
A I made attempts to get them. I can't answer.
REFEREE: Read the question and let's have an answer.
(Question read.)
A Again I can only answer it I do not have the X-rays present and I can't tell whether I have them or had them. I made attempts to get them.
MR. SCHWAB: Q What attempts did you make?
A Contacted the doctor and contacted the hospital.
Q Did you go out to Herrick and review the radiologist's reports on any films there?
A I don't remember that I did.
Q Do you mean by that that as far as you can recall you did not?
A I did not as far as I can recall it now.
Q Now, before you did this biopsy, did you have X-rays

taken?

A Mr. Referee, I don't have the X-rays present and I can't be specific as to which X-rays were taken.

REFEREE: The question is, Did you take X-rays.

MR. SCHWAB: You can refer to your file.

A There is no record of X-rays taken in my place.

MR. SCHWAB: May I see the Richmond records, the earlier one?

(Documents handed to Mr. Schwab.)

MR. SCHWAB: Q In the Richmond Hospital record there is a report of roentgen examination by Dr. Lloyd E. Smith, of films taken on August 15, 1958, at your direction.

A Uh huh (yes).

Q Are those the first films that were taken under your direction?

A Yes. Attempts were made by associate Dr. Eldred, who was my associate at that time, to obtain the Herrick films on September 2, 1958.

Q September?

A No, beg your pardon. This is my error. He was awaiting the report on the one specimen. We had --

Q You had no films taken until two days after you did the biopsy?

A Yes, I had the advantage of films prior to that, however, X-rays taken --

Q Which ones?

A They must have been the Richmond X-rays or the --
Q You mean the ones taken -- A Prior.
Q When he was in there for pneumonia in February?
A Sure.
Q I found in those records first a report of films on February 21, 1958 (handing document to witness). Do you recall whether you had seen that report before your operation?
A I saw the X-rays and undoubtedly the reports before my operation.
Q Are the findings reported there typical of a pneumonia?
A They're more than typical of pneumonia. They're also typical of a diffuse -- let me see where it stated --
"Widespread bilateral infiltration, becoming confluent in the right lower lobe"
Does that answer your question?
Q Well, by infiltration, you don't know what infiltration?
A No. No.
Q From this? A From your X-ray you could not tell.
Q Yes. Now, in your report you -- strike that. After the operation you submitted your specimen to the pathologist?
A Pathologist at Richmond Hospital, that's right.
Q At Richmond Hospital, and that's Dr. --
A Singman.
Q -- Singman. A That is right.
Q And did he submit to you his written report?
A He did.

Q And is that one in which he gives the diagnosis: chronic fibrosing pleuritis and chronic fibrous pneumonitis?
A That is right.
Q Now, in your report of May 25, 1959, you say the specimens of lung tissue were sent to the Health Department for study. A By Dr. Singman.
Q Well, do you mean by Health Department --
A Dr. Singman sent them to a laboratory for examination, and he reported to me they were sent to the Health Department
Q Did he say whether he meant a City Health Department, a County Health Department or what?
A I have a report here from those people.
Q All right, fine.
(Witness handed document to Mr. Schwab.)
REFEREE: We have two minutes remaining this morning.
MR. SCHWAB: Q As I interpret this sheet you have shown me, this is a sheet that was prepared in submitting the specimen? A That is right.
Q Did you ever get a reply?
A I have no other records than this.
MR. BURCHELL: May I see it, please.
(Document handed to Mr. Burchell.)
MR. SCHWAB: Q Well, Doctor, this sheet that you sent me contains, the only doctor's name it has is your own. Is this a sheet prepared in your office?
A No, this is a sheet prepared by Dr. Singman, and sent

with a specimen to the laboratory.
Q And did he send you a copy?
A I have no copy.
Q Well, where did you get this?
A This is a copy he sent to me showing that he had forwarded the specimen.
Q I see. Well, isn't it customary to include in the sheet a statement of the laboratory work done by Dr. Singman?
A You mean he was forwarding this specimen on to, for further study, and this is merely a sheet. You asked me where the specimen was sent, and there was some question as to which health department had done it. This is the answer to that question. It was forwarded on to the authority who could determine whether asbestos was present in the specimen or not.
Q You never got any report then from the State Department of Health?
A I have no report, no such report.
Q You have never checked with the State Department of Health to see whether in fact it ever did any laboratory work?
A No, but I have checked with Dr. Singman.
MR. BURCHELL: Q Is that Dr. Singman?
A David Singman, S-i-n-g-m-a-n, the hospital pathologist at Richmond Hospital and Alta Bates Hospital.
MR. SCHWAB: Q Did Dr. Singman ever give you any written report following the report in the Richmond Hospital

records?

A He gave me an oral report.

Q And I believe that data sheet indicates a submission on November 18th, is it?

A 11-17-58.

REFEREE: Any further questions of this witness?

MR. SCHWAB: Yes.

REFEREE: Just a minute.

MR. SCHWAB: You said --

REFEREE: Just a moment. It's 12:00 o'clock. Continued to 1:30.

MR. SMITH: Your Honor, I believe Dr. Crenshaw has a surgery scheduled at 12:30 for a cancer, and feels that he is unable to be here at 1:30; he can't be here. He can come later.

REFEREE: All right, wasn't this the case that Dr. Crenshaw was supposed to be here in August?

MR. SMITH: That's correct, sir.

REFEREE: He had an emergency then. He can be excused once but not twice.

MR. SMITH: Well, sometimes emergency cancers arise.

Q Is this surgery one that is just has to be done?

A A proven carcinoma, a proven cancer.

REFEREE: You see the point here, this was set before and then he had an emergency.

MR. SMITH: Yes.

REFEREE: -- at that time, and this morning we waited for him.

MR. SMITH: Yes. I can appreciate that, your Honor.

REFEREE: And wasted the time of all these attorneys who came here. Understand, other people's time is valuable besides doctors. The case is continued to 1:30.

MR. SMITH: Will you be able or unable to be here, Doctor?

A Who will pay the mal practice?

REFEREE: When will you be through?

A It will take three hours to do this.

REFEREE: You knew you were going to be here for a hearing today, you know.

A I was scheduled at 4:00 o'clock today.

REFEREE: You weren't scheduled as far as I was concerned at 4:00 o'clock.

A That was the information I received, 4:00 o'clock today.

REFEREE: When did you notify the doctor of this hearing today, Mr. Smith?

MR. SMITH: Our records show that he was advised of a hearing date. No time was specifically set. Thursday and Friday I went out of town and advised my girl to call the doctor and to ask him to be here at 10:00, 9:00 or 10:00 in the morning, wasn't sure on the time, or 11:00 o'clock at the latest.

REFEREE: When was that, last Friday?

MR. SMITH: Yes, last Friday.

REFEREE: And Doctor, I suppose you had your surgery scheduled already?

A Yes, that's right.

REFEREE: You note that notice of this hearing was sent out on the 27th of August, Mr. Smith. All right, recess until 1:30.

(Thereupon an adjournment was taken to 1:30 o'clock p.m. this date, Thursday, October 22, 1959.)

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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 subsequent 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

return to work that he had any complaints that required treatment?

A Let's see if I can get my dates straightened out here. Well, he goes from November 28th, December 12th, then to January 10th, of 1959 -- 1958, then 1959, some during February --

Q Now, just a minute. On those first three dates did you examine only or did you treat?

A Oh, treated. He has had treatments at that time.

Q All right, give me the first date and what office history you took at that time.

A It was February 9th, patient complaining of pain in left chest. X-rays of the chest: rales present in the left upper lobe -- beg your pardon.

Q 2-9-59?

A That would be 2-9-59, is the note. Dr. Eldred saw him September the 29th. States good rehabilitation of chest, and -- well, you got me. Then X-rays were taken p.m. right lateral at that time.

REFEREE: Q That's '58 now?

A That's September 29, '58. We wanted to know what we were doing.

MR. SCHWAB: All right.

A October 30, 1958 --

Q Wait just one minute, Doctor. Let's take each one at a time. A Uh huh (yes).

Q Dr. Eldredge. A Eldred.
Q Eldred. That's your office associate, is it?
A Yes, was. He is now in practice by himself.
Q I see. And his note, Doctor, is that the man was getting a good result?
A No, no. Good rehabilitation of chest.
Q Yes. A And another word here which I can't read.
Q All right. And --
A X-rays were taken at that time.
Q The only thing the doctor did was to take some X-rays?
A Examined him.
Q Yes. But I mean he didn't prescribe any medication?
A Well, I can not tell because the medication is not put in the chart.
Q All right. When is the first date after that that you saw him?
A It's on October 30th, and the reason I didn't see him at this time was I was on a lecture tour through Japan, and through the Far East.
Q You mean you called him so you could? A Oh, no. Oh, no, this man was in association with me.
Q I see. You had come back at that time?
A I came back in October.
Q All right. Now, what note did you put in your file at that time?
A I was waiting the pathological report.

Q And then when did you next see him?
A January the 10th. Report states patient has asbestosis.
Q That's the verbal report you got from Dr. Singman?
A Verbal report, that is right.
Q Well, then -- A February 9th.
Q Pardon me. That was January, what date? I didn't get that. A January 10th.
Q And up to January 10th, 1959, you hadn't given him any treatment for -- A Oh, yes.
Q For any respiratory infections?
A We were treating him to rehabilitate him as far as the motion of his chest was concerned and that went along right straight up until -- that was before, actually before the surgery -- wait a minute, something is wrong. Oh, I was going the wrong way. My error. That was after the surgery.
Q What treatment were you giving him?
A We were giving him intermittent positive pressure breathing and occasional antibiotics.
Q Did you prescribe an antibiotic?
A February 16th we gave him cerocillin and streptomycin.
Q On what date?? A February the 16th.
Q Of '59? A '59.
Q And that's the first time that you have a record of prescribing antibiotics?
A He had intermittent positive pressure breathing right

along. Yes, that's the first time following the surgery.
Q And what complaints did Mr. Cuthbertson make to you on February 16th?
A He had a respiratory infection and a sore throat.
Q The soreness was in the throat? A At that time.
Q All right. Had any --
A His chest -- pardon?
Q At any later date was there a prescription of medication.
A Well, he received a series of one, two, at that time and I checked him February 20th, and felt that he was getting over his respiratory infection. On March the 29th, he had periodic treatments and March the 6th, patient was still having pain in left side and was worried about it. May the 9th he had some antibiotics. March 13th -- March 9th, patient coughed up greeinish material, and was put on albumycin and other antibiotics.
Q Are those March or May?
A This is May. May 9th.
Q May 9th.
A Yes, he had antibiotics in March; again May 9th he had antibiotics. That was May 9th. May 11th, I saw him and he was improved and stopped the antibiotics. He had repeated intermittent positive pressure breathing to improve his bronchial drainage at that time, periodically during this time. On June the 11th, 1959, the patient still having sputum but it was clear. June the 8th, 1959,

patient had a temperature of 100.2. Was put on antibiotics.
Q Well, on those visits in June, what complaints did he make to you?
A Chest pains, sore throat, fever, but no pneumonitis. I am very sure there would have been if it had not been controlled.
MR. SCHWAB: I haven't any further questions.
REFEREE: Mr. Maloney.
MR. MALONEY: Q Doctor, have you observed any other cases of asbestosis during your practice?
A Oh, many cases. This is the third in a series associated with the same type work and the same situation.
Q By same type work, what are you referring to, Doctor?
A Installation of asbestos materials.
Q I see. And you observed three cases of similar nature?
A I did.
Q Would one have been Mr. Cuthbertson's brother?
A That is right.
Q And would the other one be Mr. Thorsted?
A That is right.
Q As I recall your testimony, Doctor, you did not take an occupational history when you first examined Mr. Cuthbertson?
A No, on Mr. -- on Mr. Cuthbertson's brother we had an occupational history. We felt it was not necessary to go into detail as they worked jointly together in the same situation.

Q So you referred to his brother's history at the time?
A That's right.
Q Doctor, before performing the biopsy, did you take any laboratory procedures?
A Routine laboratory work was done, of course, in the hospital on admission and I am very sure --
Q Well, that would be at the Richmond Hospital?
A At the Richmond Hospital, and all those reports were here, blood typing, and of course, we always check for tuberculosis and cancer, and diseases of this type. Those reports are here. He was bronchoscoped. No tuberculosis; no malignant cells found.
Q Were any sputum tests made?
A Yes, actually, there was more accurate washings, in which we got the flow of, or the bacteria of his respiratory tract.
Q What was the result of the bronchiitest?
A Actually cultured for fungi and we cultured for tubercle bacilli, which were negative, and if you would like the various organisms that are present, their sensitivity, they're right here on this piece of paper if you wish.
Q Let's see.
(Document handed to Mr. Maloney.)
Q You say that bronchial tests were negative, Doctor?
A For tumor.
Q For tumor.

A For cancer, that's right, and also for the tuberculosis.
Q I see. Were any other conditions, Doctor --
A What?
Q Possibly asthma?
A We checked for allergy routinely. Charcot-Leyden crystals and eosinophils, which designate allergy, were checked for as well.
Q Were any blood tests also conducted?
A Routine blood count and urine.
Q And what were the results of these tests?
A I must get my glasses back on. I still have them fogged. His -- he was running a 12,000 white count on admission to surgery and, but had 97% hemoglobin, and the polys. were fairly normal. Monocytes and leucocytes were within normal distribution. He was a Type O. Rh negative as far as blood typing was concerned. His urine test was essentially negative.
Q Doctor, after running these clinical tests, you mentioned, was there any clinical evidence of disabling pulmonary disease present as the result of these tests?
A Not of these tests. These tests are non-specific tests.
Q And did you take any pulmonary function tests before the biopsy?
A Not before. I have some after; following it, but I did not take any before because I feel they are not -- as I have expressed myself in the other cases, I feel the

web is too wide. There are too many loopholes in them, and as far as function tests are concerned, I do not feel we can rely upon them, and I think that's the universal feeling of practically all surgeons, and I have talked to many of them throughout the country, and throughout the world. I take them mainly because they seem to be faddish, and we are in that phase at the present time.

Q Now, you performed a biopsy on August 13, 1958?

A I have a surgical report here if you wish.

Q Doctor, what was the purpose of performing the biopsy?

A To find out what this man's disease actually was, and I was very suspicious. It was a diagnostic procedure and also rules out pneumonitis of this type, to rule out a malignancy or a fungus infection or something of that sort.

Q And this is a surgical procedure, is it not, Doctor?

A That is right, an accepted surgical procedure.

Q Surgical procedure. This usually results in some disability?

A Some disability, but temporary disability; not permanent, of course.

Q I see. How long is the man generally disabled when you do this procedure?

A That depends entirely on the individual but usually two months or more.

Q Is this considered major surgery?

A Opening -- by definition opening up a cavity within a body is major surgery.

Q And what was your diagnosis, Doctor, immediately after the biopsy was performed?

A My pre-operative diagnosis based on what the history and based on his working and surrounding environment, was asbestosis. My post-operative diagnosis was the same. Dr. Lawrence Brown helped me with the surgery and collaborated.

Q And this was based upon the history and the symptoms?

A And observation, and feeling, and palpation of the lung, which to me is a most delicate and definite way of telling how badly injured the lung is. We are amazed constantly how little the X-ray shows us, those of us reading X-rays and entering chests.

Q As I recall your testimony with respect to X-rays, Doctor, you are not sure that any X-rays were taken at your office before the biopsy?

A None in my office but, of course, I wouldn't go into a chest without having seen the X-rays first. I was being equivocal because I thought you might be hedging on certain dates and certain times and making much of that, and therefore, the X-rays --

REFEREE: Doctor, you just answer questions. Don't assume if they're hypercritical or not.

A All right, sir. But the X-rays not being present, I

was being equivocal.

MR. MALONEY: Q Did you ever review any of the materials used by Mr. Cuthbertson in his employment?

A I do not believe I have.

Q Could Mr. Cuthbertson's symptoms have been produced by other causes such as cancer, tuberculosis --

A His symptoms could have been, yes, that's right, but we ruled those out.

Q Did you rule out asbestosis, Doctor?

A We ruled in asbestosis.

Q By a process of elimination, was it?

A By a pathological examination.

Q This was the examination you testified to earlier, was it not? A Gross and microscopic.

Q And the oral report was submitted to you by --

A That's right.

Q -- Dr. Singman. Doctor, would the inhalation of dust or particles from foam glass, materials have any effect upon the condition that you diagnosed?

A Foam glass?

Q Yes. A Foam glass. You mean fiber glass?

Q Foam glass. A I am not familiar with it.

Q I see. Are you familiar with fiber glass materials?

A Yes, somewhat.

Q Would this material have any effect upon --

A The feeling at the present time is that it doesn't have

a great deal, although in the more recent literature it warns you against inhaling it in any quantity and that's experimental work done on animals.

Q Did you ever tell Mr. Cuthbertson that he had an asbestosis condition?

A In my clinical opinion he has it, and I told him so.

Q When was this, Doctor?

A Immediately following his surgery.

Q In August of --

A Well, right after his surgery. As soon as I had a definite report.

Q Did you also tell him that this condition may be related to his occupation?

A I don't believe I had to do that.

Q Were you paid for your services in connection with the operation, Doctor?

A That I can not answer. My bookkeeper handles that, and I do not have the records present.

Q When did you last treat Mr. Cuthbertson, Doctor?

A He was in my office on October 12, 1959, for pulmonary function studies.

Q And what were the results of these studies, Doctor?

A They're within fairly normal limits as far as pulmonary function studies are concerned.

Q Do you have any recommendations for future treatment?

A Yes, complete observation, especially protection from

further inhalation of these agents that are causing trouble in his lungs, complete protection. I do not feel he need leave his chosen occupation but he certainly should be protected against further damage and observation because I don't believe any of us know once the fibrosis starts in a man's lung how far it's going to go, and that's the usual story of asbestosis and silicosis.

Q You say there was a fibrosis condition present?

A Reported by the pathologist and definitely grossly.

Q By the pathologist, Doctor?

A And definitely grossly at the time of surgery.

Q Doctor, you also mentioned this greenish material that Mr. Cuthbertson coughed up, you mentioned one day of May 9, 1959, do you recall when he first mentioned the material?

A I have it recorded. That means an infection in his bronchial tree. That means sputum. Coughed up greenish material May 9, 1959.

Q I see. Is asbestosis a common disease?

A No, I would say it's not common.

MR. MALONEY: I have no further questions.

REFEREE: Mr. Burchell.

MR. BURCHELL: 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.

Q Are you familiar with the fact that so far as the pathological investigation has been determined there is no interference with the bronchii or bronchioles of the lung?

A I don't agree with that. That's the microscopic and I am basing mine on what I saw.

Q If this is a fact, the microscopic analysis, or is it a fact that there is no interference with the bronchii or bronchiole, then do you have to conclude that there is no asbestosis?

A Oh, no, I don't accept that in the first place.

REFEREE: Youdon't accept what?

A That there is no interference in the bronchii and bronchioles.

REFEREE: They're asking you what the answer is if you do accept it.

A I didn't.

MR. BURCHELL: Q Well, assuming that they're normal.

REFEREE: Assuming there is no effect.

A No, that doesn't necessarily -- it's true because one of the most important functions or factors of the lungs is exhalation in the lung as well as others. There are about twenty different functions of the lungs and the elastic fibres are probably more important in this regard

than the actual conductive system in other disease in which the elastic processes are interfered with by any scarring or sclerosing substance. You may have normal appearing bronchii and bronchioles and have a non-functioning lung, and that being true in emphysema, for instance, before it gets into the cotton candy lung. Elastic fibres are extremely important in function.

MR. BURCHELL: Q You feel that asbestosis in this situation affects the elastic fibres of the lung?

A It affects their function; the fibrosing elements would affect their function.

Q Now, do you have any evidence in your record that the elastic fibres' function have been affected by the finding that you have made or other people have made in this case?

A I do not think so.

Q Pardon me?

A I have no record of it, no.

Q Is there any evidence that there has been an extension or a change in the fibrous appearance of the lung?

A At surgery there was gross change.

Q Change as compared to what period, Doctor?

A Oh, I can only say, speak of the actual time I saw him when the chest was opened, and I had thelung in my hand.

Q Yes. When you saw it at surgery, were you able to differentiate it whether or not the appearance you saw were not -- could you differentiate between the appearance which

you saw between residuals from a chronic pneumonitis or pneumonia or whether it was due to the presence or absence of asbestos materials, or whether it was due to quartz that may be in the lung?

A We couldn't tell what the substance was that produced it but we could tell there was definite destruction to this man's lungs.

Q So far as -- by your observation at surgery you knew --

A His lungs were injured.

Q The lung had evidence of some injury?

A That is right.

Q Would your opinion be any different today if you knew there had been some disposition of quartz within the pleura of the lung?

A What do you mean by quartz?

Q Well, let's say -- I mean what the Public Health Department means by quartz.

REFEREE: Quartz. You know what quartz is.

A Silica. Is that what you are getting at? I mean, there are inert substances that don't cause any trouble at all and certain things that cause a great deal of trouble -- silica?

MR. BURCHELL: Quartz.

REFEREE: Quartz. You know what quartz is, Doctor.

A I am still trying to get your definition of what you mean by quartz.

REFEREE: The dictionary definition of quartz.

A Would you state your question again to me, please?

MR. BURCHELL: Yes.

Q Would your opinion be any different today if you knew the record shows there was a distribution of quartz in the lungs?

A My clinical opinion has not changed in this man at all.

Q Regardless of what's in the lung?

A Regardless of what was found in the lung.

Q You mean it's not important to know what was found in the lung?

A Oh, it's very important to know what's found in the lung, very important to know.

Q Is it important to know the quantity of what was found in the lung?

A That is right.

Q Isn't it important to know that it is something that could not be if there was asbestosis. It could not be reducible by ordinary pathological investigation?

A No, ordinarily pathological examination as done by Dr. Singman would miss asbestosis except in far advanced stages.

Q And that's true, the amount that was present was so slight and so small it could not be found by the even rechecked pathological investigation?

A Oh, I don't think that is true. I think they found far advanced asbestosis in this man's lung and that's the

written report.

REFEREE: What written report?

A Dr. Watson's report.

MR. BURCHELL: Q And is this what you based your opinion on, a far advanced asbestosis?

A Oh, no, I am not taking it from his report.

MR. SMITH: I think the insurance company's report shows asbestosis bodies moderately advanced. It's on page two.

REFEREE: "Asbestos body deposition, moderately advanced lung."

MR. BURCHELL: Q Well, there is a difference, Doctor, is there not, between asbestosis and the, just the presence of asbestos in the lungs?

A It's the amount of reaction around it, yes. Moderate interference with drainage.

Q So --

A But not being an expert pathologist, I would deduce from these facts that this man and also from my clinical and surgical experience that this man has moderately advanced asbestosis.

Q Well, what evidence did you rely on to come to this conclusion before you saw the report of Dr. Watson?

A The evidence was based on the history and experience with his brother in which I missed the diagnosis, in which the man had surgery because of an extensive pleural effusion

and I could not determine the nature of it, and then it we
on to further trouble, in which surgery was required to
make a definite diagnosis again on the opposite side, and
which time we took a lung biopsy and found his trouble and
with real damage to this man's lung. That case has been
before the Commission and has been settled, as I understand
And this man worked under the same circumstances. He is a
twin brother of the man, over the same period of time.
Q Then you base, as I understand your testimony, you
based your diagnosis initially on the fact that Mr.
Cuthbertson had a brother who had asbestosis?
A That was one factor.
Q And you did not take a history from Mr. Cuthbertson?
A No, I had the history. I had the history. You're
talking about occupational history. I had an occupational
history.
Q Doctor, my initial question was to reach a conclusion
that the fibrosis in the lungs and you feel is present,
and was related to the asbestosis?
A That's right.
Q It is important to know the quantity of the asbestos that
is in the lungs, is it not? A That is right.
Q That is right. And if it's not found by ordinary
pathological medical investigation by Dr. Singman and Dr.
Soave in their techniques and is only found in minute
quantities in the lung, keeping this in mind, and keeping

in mind that the man had pneumonia in the past and other chest difficulties, isn't it a distinct probability that the fibrosis in his lungs is related solely to the other condition?

A I can't --

MR. SMITH: I will object to the question as being compound and complex.

REFEREE: Overruled. Can you answer? Answer the question, Doctor.

A Well, I wouldn't -- you put up a proposition there, a hypothesis to me which isn't true in the first place.

REFEREE: Q What do you mean it isn't true in the first place?

A He said this man didn't have, and I was basing it on things that I didn't base it on, and you said that the examination of Dr. Singman, who didn't look for asbestos bodies was a criterion in determining whether asbestos particles are present or not is not true; when this question comes up, we send it to a special lab. for examination and Dr. Singman won't even test for it. This is a specialty.

MR. BURCHELL: Well, you asked Dr. Singman to look again to see if there was any asbestos, didn't you?

A I asked him what he thought of it, and he said, "Well, send it to the State lab."

Q You got his report.

A After he got a report from the lab.

Q No, before you got his initial report, after he looked at it, didn't you? A Yes.
Q And he said he found it was fibrosed due to the pneumonitis, right?
A No, chronic fibrosing pleuritis and chronic fibrosing pneumonitis, which is entirely different from what you are trying to make it out.
Q All right. Now, then, you asked him to look again, didn't you, to see if there was any asbestos?
A And he said he couldn't, he would send it to the state lab to pass on it. He might have said he couldn't find any, but that didn't mean asbestos wasn't there. If I had been served with that examination, we would have stopped there, and that's no criteria to determine whether a person has asbestos or not.
Q Isn't it true that after Dr. Singman says his technique wasn't critical enough, he could not go down far enough to get a small tracer amount, that you suggested that he send it up to Berkeley?
A No, that is not true. At surgery I suggested this be sent out for an examination for asbestosis through Dr. Singman, realizing that he doesn't do it, realizing the ordinary hospital pathologist doesn't test for these things, that it must be sent for special examination. I know Dr. Singman very well, respect his ability very much, but I would not respect his ability to diagnose or not diagnose

asbestosis as exemplified by the steps taken.

Q Did you receive a report from -- have you seen the report of Dr. Soave?

A Unless it's here, I haven't, and I don't know.

MR. SMITH: I think it's that short, that one right there, Doctor.

A I have the report here.

MR. BURCHELL: This is the one to William Theilen.

A Beg pardon?

Q Is this the one made to William Theilen?

A Yes, William Theilen.

Q December 10, 1958. A That is right.

Q Which is part of the Defendants' Exhibit No. 6 this date.

REFEREE: Go ahead. Let's have the question, Mr. Burchell.

MR. BURCHELL: Q Having read this report, if the pathological investigation, microscopic, clinical testing by the pathologist at the Department of Health is negative, for any evidence of asbestosis --

A Do you read that in here (indicating)?

Q I don't find any evidence there is any pathology to asbestos there.

A First of all, this man is a veterinarian, and I don't think he says much of anything other than the presence of fiber glass and granulomatous lesions that couldn't be

determined from tuberculosis, coccidioidomycosis orcertain irritants or toxins.

REFEREE: All right, the point is, does that report specifically indicate asbestosis?

A The report doesn't indicate anything.

Q All right, why didn't you say so?

A O.K. He didn't ask me.

REFEREE: He did ask you if it indicated asbestosis.

A I didn't understand it then.

REFEREE: Then you say it doesn't mean anything. Now, answer the question directly, Doctor.

MR. BURCHELL: Q Now, if the amount is so small, or of such an insufficient quantity to be able to be determined by microscopic analysis by two pathologists on histopathological examination of the specimens that were taken during your, when you did the lobotomy?

A Lobectomy.

Q Lobectomy. I am sorry.

A That's right. There is a big difference.

MR. BURCHELL: You're confusing me --

A That's what you're trying to do to me.

Q I was going to suggest you would like to do it to me.

If this amount was such a small amount that couldn't be found by microscopic analysis, would your opinion be any different?

A Not changed one iota.

Q Well, isn't the quantity of asbestos important that you find in the lung?
A It's the reaction of the lung to the asbestos is the important factor.
Q I think you have already testified that you can not determine from the reaction as to whether it's due to asbestos, pneumonia or quartz, can you?
A Question once more, please.
Q You could not tell from observing the lung or what we know today what evidence we have before us today in this case whether it's due to quartz, whether it's due to the chronic case of pneumonia in the past or whether it's due --
A Oh, that I can tell definitely. Chronic pneumonia usually leaves not even scars in the pneumonic process, I can tell if it's pneumonia. Quartz -- apparently, I can't get the definition of what you mean by quartz, but quartz, saying silicosis, I couldn't tell that grossly between silicosis and asbestosis.
Q Well, to produce a finding of chronic fibrosing pneumonitis any number of noxious gases or fumes could produce it, could they not?
A They can produce fibrosis in the lungs.
Q And cigarette smoking could produce it?
A Cigarette smoking produces just the opposite. It produces a varnishing lung.
Q Could benzine 24 cause scarring?

A I have no idea of what benzino 24 causes.

REFEREE: Any further questions, Mr. Burchell?

MR. BURCHELL: Yes, sir, just a moment.

REFEREE: Let's get on with it.

MR. BURCHELL: Q Do you know whether your records indicate if Mr. Cuthbertson had received any medical treatment for respiratory infections in the year before you first saw him?

A He was referred to me by his private doctor, Dr. Larry -- Lawrence Brown, Richmond, who told me, and in fact, called me as a chest specialist because of this problem.

Q When Dr. Brown first called you into the case, did he discuss with you the fact that Mr. Cuthbertson had a brother that had been involved?

A He was surprised to hear that there was a family relationship, that the brother had been exposed to asbestos -- asbestosis, or had asbestosis as the result of his occupation and that this man was a brother, and he was, he could understand then why he had such current respiratory problems.

Q If the bronchial, the bronchial drainage and the findings of the sputum and what not that you identified as late as May 9, 1959, that were present, these could be residuals from the blood and the accumulation of material following your surgery, your biopsy, could they not?

A You're asking me, as I understand your question, that

changes in this lung were due to my surgery?
Q No. Well, ~~some~~ changes were.
A There would be some changes but not --
Q No, my question is, you said that you found a bronchial draining that continued up until May 9th of 1959.
A Whether they were part of the surgery? No, we worked with this man for sometime in an attempt to rehabilitate him following surgery, and I have already testified that periodically lasts about two months in an ordinary individual after thoracotomy.
Q Had his bronchial drainage stopped following surgery?
A No, bronchial drainage never follows. His abnormal bronchial drainage at thepresent time exists and will exist because of the damage to his lung.
Q During surgery there is a certain amount of accumulation of blood and fluid at that time, is there not?
A Would impair the lung for a specified time in the majority of cases bearing the fact that each person reacts differently over a period of time. We could give them around two months or roughly that length of time for them to clear. Now, if you have diseased lungs and impaired or injured lungs, it will take longer and much longer.
Q I see.
A You might be interested in knowing that we are very actively engaged at the present time on a Navy research project, the further details I can not tell, in which

the detailed anatomy of these lungs have been found to be entirely different than what some of the other men have been basing their knowledge upon and I just returned from a meeting in Arizona where parts of that program was given. Many ideas and concepts are going to have to be changed.

Q Now, Doctor, as I understand it, your definition of -- your diagnosis of asbestosis is based on the presence of fibrosis in the lungs.

A The presence of asbestos products, asbestos.

MR. SMITH: The question has been asked and answered.

REFEREE: It has. Now, let's get on with it, Mr. Burchell.

MR. BURCHELL: All right.

Q Besides asbestos in the lungs and fibrosis, is there any other evidence in this record that you found?

A No, I found no other evidence for this man's disease than what I have testified to.

Q Did any other evidence for your conclusion other than asbestos found in the quantity that was found and the fibrosis --

A My conclusion is being based upon the occupational history, being based upon the clinical history, being based on X-rays, being based on surgical observation and gross and microscopic observation and clinical follow up on this man made me come to a definite medical diagnosis of asbestosis with definite injury to Mr. Cuthbertson's lungs.

Q Now, have you had this matter referred to any pathologist other than Dr. Singman?
A These pathologists here are the only people we have seen
Q I see. And this opinion also includes the opinion of Dr. Singman, your opinion?
A I can't give you Dr. Singman's opinion. I don't even have his report.

MR. BURCHELL: I have no further questions, Mr. Referee.

REFEREE: Mr. Moore.

MR. MOORE: Q Doctor, you say you are a board, certified --
A Board Certified, Founders Group American Thoracic Surgeons, board qualified in diseases, in internal medicine, and eligible for board of sub-group of diseases of the chest, however, I can not have both because one would nullify the other. Unfortunately, that gives away my age.
Q Doctor, did I also understand you to say that the three cases are the ones that you have had experience --
A Two cases in this group.
Q Two other cases in asbestos?
A In this group.
Q In this group. Have you had others of this --
A I have been in practice of diseases of the chest and surgery in this area for twenty years.

REFEREE: What's your answer??

A My answer is I can not recall any right off-hand but

I am not sure. I have had others.
Q But you can not recall them?
A I can not recall them right at this time.
Q Have you ever had any specialized training, Doctor, in occupational diseases of the chest? A Yes.
Q And where?
A I have attended meetings throughout the world and gone to groups, some group meetings throughout the world, throughout the United States and part of our work in my general training days dealt extensively with industrial diseases.
Q What meetings were these you attended?
A Internationl symposiums of diseases of the chest; in Tokio last year; made a tour through Asia, New Zealand, Australia; sent out by the Navy and by --
Q Doctor, the question was --
A You asked me what I had, where I had gone. You want to hear --
Q For occupational diseases of the chest.
A This all includes occupational diseases of the chest.
Q I asked you if you had any specialized training in occupational diseases.
A I don't specialize specifically but I have as much training as practically all men in this field.
Q Have you ever attended any lectures or studied any of the material in the symposium at Saranac Lake, New York?

A Yes, I have looked at Dr. Wright's work on pulmonary physiology and silicosis. I won't say I am familiar with it but I know them and I know Dr. Wright.

Q Can you tell us, Doctor, what concentration of particles and what size asbestos are pathogenic for asbestos

A The size must be sufficiently small to pass through the bronchioles on respiration to be picked up, and by the lymphatics and carried through the mucus membrane at that point.

Q Specifically, what is that, Doctor?

A I do not remember right at this time. I am a little tired tonight.

Q Well, so far as concentration, do you know what the concentration is?

A I don't, I can't. I do not.

Q Pathogenic? A I do not know at this time.

Q Well, Doctor, isn't it true you haven't made any special training in silicosis or asbestosis?

A Any special training. I am trained in diseases of the chest, which includes a large part of it, as exemplified by care of these patients. Of course, I have.

Q Doctor, you don't know what sizes or concentration of asbestos are necessary to produce the pathological changes in the lungs, do you?

A I know that this man has asbestos particles in his lung and I know they're the ones that caused the damage.

REFEREE: Doctor, will you please answer the question?
A I have had a lobotomy but go ahead. You wanted to know the exact size. I can get them for you in two seconds. I don't remember them at this time.
REFEREE: I can get them, too, but I want to know if you know.
A Not at this moment I do not know. I have known them many times.
MR. MOORE: Q Now, Doctor, there is no reported specific pathology in any of the X-rays, is that right?
A As far as the X-rays of the man is concerned there actually isn't. If my eyes -- if I had the X-rays here, but to me there was in my eyes, I feel that a man specializing, that there was a fine granular appearance to these X-rays, however, I again can not answer that because I don't know at the moment because the X-rays are not here.
Q You don't remember even seeing it prior to surgery?
A Of course, I saw them prior to surgery.
Q Well, I am sorry. I understood your testimony this morning to be that you did not remember, whether you saw them.
A No, the only equivocation this morning was I was trying. I did not remember the dates the X-rays were taken or exactly where they were. I would not operate on the man's chest unless there was testing and pathology present. I saw the X-rays at Herrick and I saw the X-rays at Richmond before the surgery was performed. Likewise Dr. Brown

would not allow me to operate on this man before surgery if I hadn't seen them.

Q Doctor, I understand you would not have operated on this man as you did unless there was pathology visible on X-rays.

A There was pathology visible on X-ray.

Q Despite the fact that the X-rays may have been reported negative by roentgenologists?

A Who did not have a complete medical history or information regarding the possibilities of disease in this man's chest.

Q Well, Doctor, don't you, in that situation don't you frequently provide the roentgenologist with the history, tell him what you were looking for?

A I do on occasion. I did not on this occasion. This man read his X-rays long before I had an opportunity to talkto him and made his report.

Q Well, can you tell us whether prior to the time that you took, whether prior to the time you did your surgery you actually took current X-rays?

A He had current, he had recent X-rays taken. Now, I can't remember at this point just where they were or how they were, and that's why I was being equivocal this morning to your other collaborator, but he had X-rays prior to surgery or we would not have done surgery, and that's a matter that can easily be straightened out, merely getting

the X-rays.

Q Doctor, I believe the ones, the X-rays which were forwarded to you by Dr. Thompson included those going up to 1956 and included those -- strike that. Now, Doctor, so far as the pathological reports again there was none of the pathological reports showed any specific diagnosis of asbestosis, is that right?

A No, Dr. Watson reports asbestosis.

Q He reported asbestosis?

A Asbestos particles and fibrosis of the lung.

Q Well, isn't Doctor --

A Isn't that asbestosis?

REFEREE: I don't know. You tell us.

A I have tried to many times.

MR. MOORE: Q The question, Doctor, whether the pathologist's report --

REFEREE: Before we go any further --

MR. MOORE: The question is whether --

REFEREE: Just a minute. As you say this morning, you equivocate too much.

A The question --

REFEREE: Nobody is asking you to argue anything; they're only asking you to answer questions. Answer them. If you can't answer them, say so.

MR. MOORE: Q Neither pathologist, Doctor, made a diagnosis of asbestosis? A No.

Q The mere bare existence of asbestos particles in the lung is not diagnostic of asbestosis, is it?
A No.
Q And so far as the pathological or laboratory studies are concerned, that is all they have shown, isn't it, the mere existence of asbestos in the lungs?
A Am I to answer that just the way he wants it?
Q Limit yourself solely to the laboratory examinatin.
A Laboratory examinations do not show the --
Q Yes.
A Do not show -- wait a minute. Laboratory diagnosis -- the pathologist has not diagnosed asbestosis.
Q So you have to determine whether there is sufficient asbestos and sufficient pathological changes in the tissues to cause this disease, isn't that the essential question?
A Yes.
Q And in this case, this gentleman has had a history of recurrent episodes of pulmonary infection.
A Not before exposure. I am sorry, I didn't answer it "Yes" or "No."
Q Doctor, the fibrotic change --
REFEREE: You see, Doctor, if you will answer "Yes" or "No." To be frank, the way you appear, you impress me very much as being on the defensive.
A Not defensive; I am merely tired.
REFEREE: All right, answer questions directly.

MR. MOORE: Q Doctor, the so-called fibrotic changes are very, very minor in this case, aren't they?

A They're not; no, they are -- now, I don't know how to answer that "Yes" or "No."

REFEREE: Q Are they mild or not?

A They're not minute.

MR. MOORE: Q Well, none of the roentgenologists have noted their existence, have they?

A No.

Q Doctor, the temporary phase of disability in this case was caused by the surgery, is that right?

A No.

Q Well, was he working up until the time of surgery?

A He was not working when he came, no -- yeah, he was working.

Q And the reason he took off work was because you did the surgery? A No.

Q Why did he leave work, Doctor?

A What you're asking me --

Q Why did he leave work?

A He left work because of respiratory complaints, an undiagnosed chest problem.

Q Well, Doctor, the surgery did not, was not designed to alleviate his situation one way or the other?

REFEREE: That's been asked and answered, Mr. Moore. Let's not ask useless questions.

MR. MOORE: Q What, Doctor, is intermittent positive pressure ~~breathing~~? What is this? Would you tell us?
A That's oxygen and air given under pressure to increase inhalation and reduce the edema and open up congested air ways.
Q You have been giving that since you gave it for a period from August 27, '58, intermittently, through May of '59. A And now.
Q Well, Mr. Cuthbertson has testified that he still has the same complaints, Doctor? A That is right.
Q But then this treatment has not been very effective in alleviating them, has it? A Yes, it has.
Q What are the normal ways, Doctor, in which you make a diagnosis of asbestosis?
REFEREE: Oh, let's not go over that again, Mr. Moore.
MR. MOORE: Q Speaking, Doctor, of vaccine which you have given this man: what is that?
A Cutter mixed up a respiratory vaccine that gives them temporary immunity against the organisms within his own respiratory tract. It's a passive type of immunity.
MR. MOORE: I don't have any further questions.
REFEREE: Mr. Smith, any questions?
MR. SMITH: Q Doctor, you made reference to two or three occasions where you have had to give him some antibiotics and that he had respiratory infection. Was there any relationship between the respiratory infection and the

need for biotics and his asbestosis or not?
A There is definitely, yes.
Q What is the relationship?
A These people, once they get a respiratory infection, it hangs on because their lungs are not functioning normally, and goes into periods of pneumonitis similar to the one just prior to that when I saw him.
Q Doctor, you were asked, I believe, and shown the report of Dr. Soave, and you had also mentioned that you had read the pathological report of Dr. Watkins?
A Watson.
Q Watson. Excuse me. Which is in Dr. Hinshaw's report, and there is this microscope, or this report of the Department of Health as to their findings. I don't know whether you have had occasion to see that or not.
A No.
Q I gave it to you. I don't know whether you read it.
A I haven't had a chance to see it.
Q Would you just read that a minute and advise whether or not any of those reports, whether in view of your report you wish to change your opinion or diagnosis in this case?
A My opinion has not been changed whatsoever.
MR. SMITH: I have nothing further.
MR. SCHWAB: May I have one question on that?
Q When is the first time that you saw Dr. Soave's report?
A Today.

REFEREE: Any further questions? That's all, Doctor.

A Thank you very much.

REFEREE: Go ahead.

MR. SMITH: I was just going to ask the doctor to send me a bill for his time, which I would file, and I believe we have some litigation costs in issue.

REFEREE: Yes, that's in issue.

MR. SMITH: Yes. Applicant has nothing further, your Honor.

REFEREE: Do you want Dr. Crenshaw's report? Do you want to put that in evidence?

MR. SMITH: Yes.

REFEREE: That willl be Applicant's Exhibit No. 2, together with his bill. Now, anything further?

MR. SCHWAB: No.

MR. SMITH: Your Honor, we would like to submit a bill from Dr. Crenshaw for his testifying before the Commission.

REFEREE: I am not going to accept it. I am going to make a suggestion. The medical evidence in this case is very poor and very unconvincing one way or the other, both ways. I don't know if this man has asbestosis. None of the doctors will tell me what asbestosis is and what causes it. I would suggest you get an agreed examiner and leave it to him and file his report. Agreeable with you, Mr. Schwab?

MR. SCHWAB: Yes, sir.

MR. MALONEY: It's agreeable to me.

REFEREE: Will the defendants take care of it, Mr. Moore?

MR. BURCHELL: Agreeable.

REFEREE: Is that agreeable, Mr. Moore?

MR. MOORE: Yes, satisfactory.

REFEREE: Is it agreeable?

MR. SMITH: I will go along with your recommendation.

REFEREE: All right, you people get together and pick out your agreed examiner. Get somebody who knows something about occupation and who has had some background, and tell me what asbestosis is, just like they do in silicosis cases. They tell me what silicosis is and what causes it, the exposure necessary, the size particles. I want some information on which I can decide a case. And see to it that they get all this medical information you have. How long do you think it will take to do that? I know this is more than the usual case. I agree that thirty days isn't too short.

MR. SCHWAB: I don't know whether we can agree to a man, Mr. Referee.

REFEREE: What?

MR. SCHWAB: I don't know whether we can agree on a doctor.

MR. SMITH: I was going to suggest, why don't you discuss with the Medical Bureau --

REFEREE: I am not going to do that. I want all the parties -- that sort of a situation, it would be much more scientific for me to toss a coin, and be much fairer to both sides.

MR. SMITH: To whom?

REFEREE: To both sides, to toss a coin.

MR. SMITH: Oh, all right.

REFEREE: You take any choice of doctor -- I can hand pick a doctor. I can hand pick a doctor with the chances of having one doctor or another doctor with a better chance going to the applicant or defendant. I am not going to do that. I see no reason why you can't get together on it.

MR. BURCHELL: Could we have ten days to get together?

REFEREE: You can have ten days to get together on it. I don't think you need ten days. You get together on it. What is today, Thursday? You get together on it next Wednesday. Then after that then you will have forty-five -- the submission is: The parties will agree upon an agreed medical examiner by next Wednesday and thereafter they shall have forty-five days to serve and file a report of such agreed medical examiner; the case then to stand submitted without further proceedings. That's all.

MR. SCHWAB: Mr. Referee, we still have some physical exhibits that haven't been received in evidence.

REFEREE: What?

MR. SCHWAB: There is no longer a man's rooting section at Cal. we could give them to, so I think we should receive them in evidence.

REFEREE: I don't want them in evidence. We have got a description of them. That won't help having them in evidence. We have a description of what they are and how they're made. That's all we need.

All right, submission as given.

---oOo---

C E R T I F I C A T I O N

I hereby certify that the foregoing is a full, true and correct transcript of the proceedings taken by me in stenotype on the date and in the matter described on the first page hereof.

Official Reporter
INDUSTRIAL ACCIDENT COMMISSION

November 25, 1959.

LAW OFFICES OF

SMITH, PARRISH, PADUCK & CLANCY

FINANCIAL CENTER BUILDING · 405-14TH STREET · OAKLAND 12, CALIFORNIA

Industrial Accident Commission
RECEIVED
NOV 23 1959
Oakland Office

November 20, 1959

FILED
11-23-59
DATE
BY

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

JES:rb

cc: Mullen & Filippi
315 Montgomery St.
San Francisco

Hanna & Brophy
1540 San Pablo Ave.
Oakland

Industrial Accident Commission
577 - 14th Street
Oakland, California

Industrial Indemnity
350 Sansome Street
San Francisco

State Fund
450 McAllister
San Francisco

LAW OFFICES OF
HANNA & BROPHY
1540 SAN PABLO AVENUE
OAKLAND 12, CALIFORNIA
TEMPLEBAR 2-2560

WARREN L. HANNA
DONALD R. BROPHY
WALTER JAKOBSEN
IVAN A. SCHWAB
ROBERT N. MAC LEAN
JOHN A. MAC DONALD
EDWARD F. MC ALEER
HERBERT C. [illegible]
EDWARD W. [illegible]
J. M. MC ELRATH
THOMAS B. RICHARDSON
DONALD V. MITCHELL
GEORGE W. BONNEY

SAN FRANCISCO OFFICE
100 BUSH STREET
SAN FRANCISCO 4

FRESNO OFFICE
SECURITY BANK BLDG
FRESNO 21, CALIF.

SACRAMENTO OFFICE
[illegible]
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 F. Cuthbertson vs.
Plant Asbestos Co., et al
Adj 1053

Dear Doctor Brown:

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

Robert F. 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 R. Arkele, 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 H. 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

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. Burchell is the attorney for that insurance carrier.

Enclosed please find the medical file. You will note that the defendants submitted reports from Dr. H. 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

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 insultation 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 (MPC means magnesia pipe covering and FG 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, 1959, giving x-ray readings on films taken October 10, 1953, November 13, 1954, 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 F. 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 Sinsman, 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. Sinsman is sufficiently clear that you can read it without difficulty.

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 Hinshaw 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 Thielen states that the needle-like crystals in the sample sub-

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 instances 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 & Clemey
c.c. Patrick H. Maloney
c.c. Mullen & Filippi
c.c. James V. Burchell - State Fund

GLENCOURT 2-8000

MEMBERS OF FIRM
EDWIN A. CLARCY, JR.
JOAN 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

November 11, 1959

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

Industrial Indemnity Co.
268 Grand Avenue
Oakland, California

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

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

State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

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

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
DEFENDANTS'	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

0001 13

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 RO

General Office: 675 Townsend Street • KLondike 2-3868
San Francisco 3, California

September 24, 1959

#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:sr

H. E. Simons

0001

GERALD L. CRENSHAW, M.D.
447 TWENTY-NINTH STREET
OAKLAND 9, CALIFORNIA
TELEPHONE GLENCOURT 1-6646

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 proudctive 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 conteat and the report was positive for asbestos.

Very truly yours,

Gerald L. Crenshaw, M.D.

GLC:jg
Enclosure

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

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

GERALD L. CRENSHAW, M.D.
447 TWENTY-NINTH STREET
OAKLAND 9, CALIFORNIA
TELEPHONE GLENCOURT 1-2040

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

GERALD L. CRENSHAW, M.D.
447 TWENTY-NINTH STREET
OAKLAND 9, CALIFORNIA
TELEPHONE GLENCOURT 1-6048

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
	I.P.P.B.		1.50
5-20-59	I.P.P.B.		1.50
	Total:	$	790.00

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 feasability 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. Shoemaker
Assistant to the
General Sales Manager

DS:rd

0001[illegible]

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 74 C 61582 vs. Plant Asbestos and Pacific 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. $4MgCO_3 (Mg(OH)_2) \cdot 5H_2O$	95.5
	b. $3MgCO_3 (Mg(OH)_2) \cdot 3H_2O$	89.5
6.	Loss on Ignition	45.6
7.	Carbon Dioxide	30.0

Yours very truly,

FIBREBOARD PAPER PRODUCTS CORPORATION

E. W. Torbohn
Manager Insulations Manufacture
Emeryville, California

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

Robert F. Cuthbertson 568-28-7686 San Francisco

Pay Rating MO (E/A) Contract # 11th Located at

Date	Pay Rating	Contract #	Employer	Located at
12-31-50		46585		
		46537		
1-14-51	100% UNIBEST	46445x1	[illegible] Elect. San Fran. Cal.	[illegible], Antioch Cal
2-11-51	" "	46445x2	" "	"
3-11-51		46517		
3-25-51		46369		
		46549		
4-1-51		46377		
4-8-51		46495		
5-6-51		46545		
		46523	Cory & Joslin San Fran. Cal.	University of Cal Berkeley Cal.
5-13-51		46454		
6-10-51		46501		
7-1-51		46669		
7-15-51		46585x2		
7-22-51		46561		
9-2-51		46445x6		
9-9-51		46573	[illegible] San Fran Cal.	[illegible] School, Santa Ana Cal.
9-30-51		46643		
		46555		
10-7-51		46643x1		
11-4-51		46611		
1-13-52	100% HPC	46669	Monterey County Plumbing, Oakland Cal.	Benicia Arsenal, Benicia Cal
1-20-52	100% HPC	46653	M. A. Sabral, Martinez Cal.	Benicia Arsenal, Benicia Cal
2-3-52	[illegible]	46701	Cory & Joslin San Fran Cal	[illegible] Bldg. Berkeley Cal
2-10-52	100% Cook	46711		
2-17-52		46[illegible]	[illegible] Los Angeles Cal	San Jose H. S. San Jose Cal.
[illegible]		46[illegible]	[illegible] Co. Fresno Cal.	[illegible] Hosp. [illegible]

Dept. [illegible] JRC 2-10-53 O- [illegible]

000151

Cont.

Pay Ending			Contract #		
5-23-52	100%	PM	46	735	Regal Amber Brewing Co. San Fran. Cal. Same
4-6-52			46	727	John A. Wilson Co. San Fran. - Hastings College of Law, San Fran. Cal.
			46	641	Herman Sawson Co. San Fran. Cal - Charles Fleischer N.Y. Same Fran.
4-20-52			46	637	Wilson Albert & Hoy, San Fran. - U.S. Veterans Hospital Bldg., San Fran.
	100%	Wool	FELT	46	727	N. Hotchkiss & Son, San Fran. Cal - Office of the Asst. San Fran. Cal.
				46	731	Equipt. Catering Co. Chicago, Ill. - Same, San Fran. Cal.
				46	661	Albert Roofing Co. - San Angelo Cal. - Alameda Cal. Same - Alameda Co.
5-4-52				46	553	J.A. Folger, Berkeley - Folger Coffee Hosp. Santa Cruz Cal.
5-11-52	WOOL	RCC	LL	46	707	Worden Bros. San Fran. Cal - Vocational Rehabilitation Center, San Fran. Co.
6-8-52				46	603	Jos. L. Farnell, Oakland, Cal - Albert A. Worden, Berkeley Cal
6-15-52	100%	MPC		46	665	Underwear Mfg. & Rental, San Fran - Alameda School, Contra Valley Co.
6-29-52	75% mk; 25%			46	561	W. P. Fuller & Co. Oakland, Cal. - Marina Vista School, Martinez Calif. Co.
7-3-52	75% MK; 25%			46	709	Western Alloy Mfg. Co. San Fran. - Henry Harrison & Albert Franklin, Francisco
9-28-52	100%	WR		46	811	Pac. Negro Veterans Hotel, San Fran. - Mary Keller School, Contra Costa Co.
10-5-52	100%	MPC		46	879	Broadway Alloy, San Fran - Alameda School, Pacific Co. Cal
12-7-52	95%	Wool	FELT	46	771	West Alloy & Mfg Co. San Fran - Glenn Alameda Assoc. Fairfield Co.
	5%	NYLON				
1-25-53	CSEE	46	771	46	671	" " " " " " " "
2-1-53	CSEE	46	771	46	771	" " " " " " " "
2-9-53	100%	RACELO		46	795	Imperial Alloy Mfg Co. Oakland - Yosemite Union Hgh. Elem. School, Merced
(Replacing)	100%	WOOL	FELT	270	043	Mc Donald Co. S.F. - Trans. to Pomona Pac. Pomona Calif.
2-15-53	100%	MPC		270	041	Mc Donald Co. S.F. - Trans. to Pomona Pac. Pomona Cal. Co.
2-22-53	95%	WOOL	FELT	270	093	Mark Alloy & Mfg. S.F. - Sacramento Valley Sacramento, Calif. & P.
	5%	NYLON				
	75%	MPC		46	699	J. W. Robertson Co. N.Y. - Folsom Dr. Ho. Vallejo Cal.
4-5-53	100%	CLEAR		270	045	Cabral Uniform, San Fran - San Fran. Drapery Co. - San Fran.
5-3-53	100%	FG		270	101	Wingate Laundry & Cleaning, Oakland - W. J. Kenny, San Leandro, Calif.
5-24-53	100%	COTTON		270	611 x2	Goodwin Laundry, Calistoga, San Fran - Napa Exploration Co.
6-14-53	50%	WOOL	FELT	46	561	(illegible) San Fran Theatres - Elem. Yosemite Hgh. Sch. Co. Merced
	50%	NYLON				
	100%	FG	FELT	270	601	(illegible) - Elem. Yosemite Hgh. Sch. Co. Merced

Cont.

Coz. Gibing		Contract #		
6-21-53	75 % HPC 35 % Wool [illegible]	46	921	Hastings-Dutton Co. San Fran – S. Cam[illegible] Hetch Hetchy [illegible] Nike Pt.
	100% wool [illegible]	270	005-1	
7-5-53	20% T.S.G. 50% MPC [illegible]	46	759	Anderson & Rowe, San Fran – State Dept of Employ., San Fran
	[illegible]	270	005	Geo. N. Wernholz, San Fran – [illegible] Court [illegible], San Fran.
7-12-53	100% MPC	270	157	Union Oil Co of Cal. San Fran – Same Rodeo Cal.
11-8-53	100% CC[illegible]	270	199	Vet. Adm. Hosp., Livermore Cal – Same
1-10-54	65% MPC 35% of G	270	059	
⊗ 2-28-54	100% Wool [illegible]	270	207	[illegible] – Travis Air Force Base
⊘ 3-7-54	100% MPC	270	205	J. N. McClure Co. San Mateo – Travis Air Force Base, Fairfield
3-21-54	100% CC[illegible]	270	297	Western Foods, Los Gatos – Same
4-4-54	25% Wool [illegible] 75% MPC	270	203	Anderson & Rowe, S.F. – S.F. Naval Shipyard, S.F.
4-18-54	70% [illegible] 50 [illegible]	46	907	Anderson & Rowe, S.F. – S.F. Shipyard, S.F.
5-2-54	50% MPC [illegible]	270	223	[illegible] Modesto – Napa State Hosp., [illegible] Cal.
5-23-54	100% MPC	270	307	Broadway [illegible] Co. S.F. – Washington H. S. [illegible]
6-13-54	100% MPC	270	369	E. P. [illegible], S.F. – Napa State Hosp., [illegible] Cal.
1				

000153

Armstrong
CORK COMPANY

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.
Insurance Department

JEZ

Enclosures

J. E. Zeller, AC&S, Lancaster

000153

BEAUDRY & WILSON • INSURANCE ADJUSTERS

450 MARKET STREET • SAN FRANCISCO 11, CALIFORNIA • EXBROOK 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 asbestosos. 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.

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,

KRAUSKY & WILSON

Richard K. Beaudry

RKB:ms

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

#6

MEMORANDUM

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

Date: December 31, 1958

From: Air and Industrial Hygiene Laboratory

Subject: Laboratory Sample S-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 blendor 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. Berefringence - .015 (estimated only due to small crystal size)

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

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. Quarts
2. Hornblende
3. Actinolite
4. Tremolite
5. Amphobile

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

W. C. Thielen

William Thielen, Assistant P. H. Chemist

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

MEMORANDUM

To: Wm. Theilen
Industrial Hygiene Laboratory

Date: December 10, 1958

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.

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 inoriminate 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

H. CORWIN HINSHAW, M.D.
HORTON C. HINSHAW, JR., M.D.
490 SUTTER STREET
SAN FRANCISCO 8, CALIFORNIA

TELEPHONE
YUKON 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,

s/t L. H. Garland, M.D.

000160

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 anisotrophic 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

Pathology Report (continued)

limited sample.

George A. Watson, M.D.
Pathologist

GAW/bc

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,

H. Corwin Hinshaw

HCHrmjh

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

TELEPHONE
YUkon 2-7166

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

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 Almanor 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 formerl 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

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^{0}F.

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

Oral Cavity 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.

Lymph Nodes Cervical and axillary nodes are not enlarged or diseased.

Thyroid Normal.

Breasts Normal.

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

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, 1959 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. Those 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.

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

COPY

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
Mullen & Filippi, 315 Montgomery St., S.F.
Ind. Indem. Co., S.F. Hanna & Brophy, Oak.

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 convalescense 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.

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.

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 excep 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)

INDUSTRIAL ACCIDENT COMMISSION

Date FEB 25 1960

TO: MEDICAL BUREAU
San Francisco

Case Name: ROBERT F. CHRISTENSON 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.
XX Refer to INE 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.
X 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. XX Are the medical findings consistent with the original incident or injury claimed by applicant?
ASBESTOSIS

2. X 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. X 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. Controversialfactors, 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. X 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

INDUSTRIAL ACCIDENT COMMISSION

Date FEB 04 1960

TO: MEDICAL BUREAU
San Francisco

Case 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.
XX Refer to IME specializing in _____

IME Fee will be paid by COMMISSION ✓
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6. FURTHER QUESTION AND REMARKS: _____

W. T. Dunbar Referee

EDWARD J. KELLY

STATE OF CALIFORNIA

EDMUND G. BROWN, Governor

JOHN F. HENNING, Director

DEPARTMENT OF INDUSTRIAL RELATIONS

HEADQUARTERS: 525 MISSION STREET, SAN FRANCISCO 3

ADDRESS REPLY TO: INDUSTRIAL ACCIDENT COMMISSION 525 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 2-8302 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, M.D.
Medical Director

JLB:jet
MD-17 amend.

000172

WESTERN ASBESTOS CO.

ESTABLISHED 1908

SAN FRANCISCO · OAKLAND · STOCKTON · NO. SACRAMENTO · FRESNO · SAN JOSE · SANTA R

General Office: 675 Townsend Street · KLondike 2-3668
San Francisco 3, California

333 20

July 28, 1959

gYB

Legal

State Compensation Insurance Fund
450 McAllister Street
San Francisco, California

Attention: Mr. Cullen

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

HES:ar

H. E. Simons

RECEIVED
AUG 5 1959
S. F. LEGAL

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 tnough 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 24 through A[illegible], Plant Asbestos

1958, Nov. [illegible] through December, 1958, Plant Asbestos

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