

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

PLAINTIFF'S
EXHIBIT

06005.00

August 16, 1967

Mr. Fred L. Gardner
Armstrong Contracting and Supply Corporation
120 North Line Street
Lancaster, Pennsylvania 17602

Dear Fred:

Subject: Asbestosis Claims

The problem of asbestosis claims and what to do to prevent them has been kicked around since 1961. E. Z. Shulz in your Milwaukee Office expressed concern for this problem in his letter to John Zeller of December 27, 1961. R. B. Ross in your Los Angeles Office wrote to John Zeller on this problem on May 31, 1962. Shulz came back again on the same problem in his letter to you of March 5, 1963. J. G. Murphy in your Elizabeth Office evidenced concern for the asbestosis claims problem in his letter to John Zeller on August 14, 1964. H. N. Harris in your Richmond Office picked up the ball and passed it to John Zeller in his letter of September 30, 1966; to you on November 21, 1966 and February 6, 1967; and then again to John on April 25 and August 7, 1967. In almost all of these instances, the Insurance Department was involved to some extent. All of us have given some attention to the problem, but none of us have seemingly been willing to meet it head-on. Even our meeting with Dick Hamilton of Aetna Casualty and Surety Company at your office on April 4, 1967 failed to produce any concrete results.

Our records show a total of 86 asbestosis claims being filed against Armstrong Contracting since 1954. Sixty-six claims or 77% were filed in the 1960-67 period; the disability dates occurring in this same period represented 52% of the total claims. In other words, the time factor between contraction of the disease and disability is clearly evident in these figures.

Asbestosis claim payments made by your insurers (The Travelers 1952-1962; Aetna Casualty 1963-1967) are approximately \$100,000.00 since 1954. The payments were charged against your retrospective rating adjustment in the years of employment of the claimants and not when disability began or the claim filed. About \$60,000.00 has been paid for your account by Aetna Casualty from 1963-1967. When you add the loss conversion factor and state tax multiplier applicable to these losses in the retrospective rating formula, you approach \$75,000.00 as your true cost figure.

The applicable state occupational disease losses are fairly consistent in one important respect - the last employer is solely responsible, subject to qualifications in some instances such as 60 days continuous employment, etc.,

PLAINTIFF'S
EXHIBIT

WV-002017

Mr. Fred L. Gardner

- 2 -

August 16, 1967

for asbestosis claims in 43 states. Only six states allow apportionment. There is no provision for occupational disease benefits in two states. (The District of Columbia is included as a state in these calculations.) California and New York are two of the more important states permitting apportionment..

The Aetna Casualty and Surety Company is now recommending pre-employment X-rays as a result of a survey of the DuPont job in Richmond, Virginia. Mr. Munis, in his letter accompanying the Aetna Casualty inspection report, refers to the sizeable cost of this recommendation as well as the administrative headache that would occur. While I sense that Mr. Munis cannot accept responsibility for pre-employment X-rays as recommended by Aetna Casualty, I do strongly feel that the time has arrived for us to take a position concerning this recommendation and the overall asbestosis claims situation which confronts us.

The cost of essentially doing nothing is cited above. Measured against this cost will be the cost of providing pre-employment X-rays and any other direct costs of an accident prevention program. Certainly by pre-employment X-rays and periodic checkups thereafter, we can essentially eliminate the possibility of an employee becoming disabled from asbestosis while working for Armstrong Contracting. Of course, this action would have to be coupled by a concerted effort at all job locations to keep employees from working in conditions where the atmosphere contains harmful quantities of the disease-producing dust. I don't know how the mechanics of such a program could be worked out; but I do feel that if enough heads are put together, we can come up with a reasonable solution that will operate to the economic advantage of your company. Bear in mind that you are the largest insulation contractor in the country, and you will be employing asbestos workers more often than anyone else. This being the case, you are apt to be the last employer more so than anyone else and with 43 states holding last employer fully responsible for benefits, you have the most to gain through this accident prevention program.

We are ready to assist you in any way we can in resolving this problem.

Sincerely yours,

Wallace B. Hofferth
Insurance Manager

LTH

John E. Zeller, ACIS, 120 North Lime Street, Lancaster, Pennsylvania 17602

August 16, 1967

Mr. Fred L. Gardner
Armstrong Contracting and Supply Corporation
120 North Line Street
Lancaster, Pennsylvania 17602

Dear Fred:

Subject: Asbestosis Claims

The problem of asbestosis claims and what to do to prevent them has been kicked around since 1961. E. H. Shadis in your Milwaukee Office expressed concern for this problem in his letter to John Keller of December 27, 1961. R. E. Hase in your Los Angeles Office wrote to John Keller on this problem on May 31, 1962. Shadis came back again on the same problem in his letter to you of March 5, 1963. J. C. Murphy in your Elizabeth Office evidenced concern for the asbestosis claims problem in his letter to John Keller on August 14, 1964. E. H. Shadis in your Richmond Office picked up the ball and passed it to John Keller in his letter of September 30, 1966; to you on November 21, 1966 and February 6, 1967; and then again to John on April 25 and August 7, 1967. In almost all of these instances, the Insurance Department was involved to some extent. All of us have given some attention to the problem, but none of us have seemingly been willing to meet it head-on. Even our meeting with Dick Hamilton of Aetna Casualty and Surety Company at your office on April 4, 1967 failed to produce any concrete results.

Our records show a total of 86 asbestosis claims being filed against Armstrong Contracting since 1954. Sixty-six claims or 77% were filed in the 1960-67 period; the disability dates occurring in this same period represented 52% of the total claims. In other words, the time factor between construction of the disease and disability is clearly evident in these figures.

Asbestosis claim payments made by your insurers (The Travelers 1953-1962; Aetna Casualty 1963-1967) are approximately \$100,000.00 since 1954. The payments were charged against your retrospective rating adjustment in the years of employment of the claimants and not when disability began or the claim filed. About \$60,000.00 has been paid for your account by Aetna Casualty from 1960-1967. When you add the loss conversion factor and state tax multiplier applicable to these losses in the retrospective rating formula, you approach \$75,000.00 as your true cost figure.

The applicable state occupational disease losses are fairly consistent in one important respect - the last employer is solely responsible, subject to qualifications in some instances such as 60 days continuous employment, etc.,

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Mr. Fred L. Gardner

- 2 -

August 16, 1957

for asbestosis claims in 43 states. Only six states allow apportionment. There is no provision for occupational disease benefits in two states. (The District of Columbia is included as a state in these calculations.) California and New York are two of the more important states permitting apportionment.

The Acton Casualty and Surety Company is now recommending pre-employment X-rays as a result of a survey of the DeFont job in Richmond, Virginia. Mr. Hinds, in his letter accompanying the Acton Casualty inspection report, refers to the sizable cost of this recommendation as well as the administrative headache that would occur. While I sense that Mr. Hinds cannot accept responsibility for pre-employment X-rays as recommended by Acton Casualty, I do strongly feel that the time has arrived for us to take a position concerning this recommendation and the overall asbestosis claims situation which confronts us.

The cost of essentially doing nothing is cited above. Measured against this cost will be the cost of providing pre-employment X-rays and any other direct costs of an accident prevention program. Certainly by pre-employment X-rays and periodic checkups thereafter, we can essentially eliminate the possibility of an employee becoming disabled from asbestosis while working for Armstrong Contracting. Of course, this action would have to be coupled by a concerted effort at all job locations to keep employees from working in conditions where the atmosphere contains harmful quantities of the disease-producing dust. I don't know how the mechanics of such a program could be worked out; but I do feel that if enough heads are put together, we can come up with a reasonable solution that will operate to the economic advantage of your company. Bear in mind that you are the largest insulation contractor in the country, and you will be employing asbestos workers more often than anyone else. This being the case, you are apt to be the last employer here so that anyone else and with 43 states holding last employer fully responsible for benefits, you have the most to gain through this accident prevention program.

We are ready to assist you in any way we can in resolving this problem.

Sincerely yours,

William E. McFurth
Insurance Manager

LHM

John E. Keller, ACSO, 120 North Linn Street, Lancaster, Pennsylvania 17602

62008

E.H. Shady, Milwaukee Dec. 27, 1961

R. B. Ross, Los Angeles May 21, 1962

E.A. Shady again March 5, 1963

J. B. Murphy Elizabeth Aug. 14, 1964

H. H. Harris Richmond Aug. 30, 1966

Nov. 21, 1966

Feb. 6, 1967

A. L. Shady Washington Feb. 6, 1967

Meeting with A. L. Shady April 4, 1967

Active now recommending passing of new physicals
as a result of survey of dust and fumes in the home

connected effort to get employees to use protective
safety devices

work on arrangement with local or national union construction union and labor
workers union

come yourself take them you are not going to become
total disability cases while in your employ

60,000

8 (175) 9

STATUTORY LIABILITY FOR
ASBESTOSIS CLAIMS

PAGE 1

STATE	RESPONSIBLE EMPLOYER
ALABAMA	LAST EMPLOYER WHERE EMPLOYEE WAS EXPOSED IN CASE OF AT LEAST 12 MONTHS WITHIN 5 YEARS OF DEATH
ALASKA	LAST EMPLOYER
ARIZONA	LAST EMPLOYER - 60 DAYS
ARKANSAS	LAST EMPLOYER
CALIFORNIA	* ANY ONE WITH RIGHT OF CONTRIBUTION (APPORTIONMENT)
ILLINOIS	LAST EMPLOYER - 60 DAYS
CONNECTICUT	* ANY ONE WITH RIGHT OF APPORTIONMENT
DELAWARE	* LAST EMPLOYER
D.C. & DIST. OF COLUMBIA	LAST EMPLOYER
FLORIDA	LAST EMPLOYER - 60 DAYS
GEORGIA	LAST EMPLOYER - 60 DAYS
HAWAII	* LAST EMPLOYER
IDaho	LAST EMPLOYER - 60 DAYS
ILLINOIS	LAST EMPLOYER - 60 DAYS
INDIANA	LAST EMPLOYER - 60 DAYS
IOWA	LAST EMPLOYER - 60 DAYS
KANSAS	LAST EMPLOYER - 60 DAYS
KENTUCKY	LAST EMPLOYER
LOUISIANA	* LAST EMPLOYER
MAINE	LAST EMPLOYER - 60 DAYS
MARYLAND	LAST EMPLOYER - 60 DAYS
MASSACHUSETTS	LAST EMPLOYER
MICHIGAN	* ALL EMPLOYERS
MINNESOTA	* ALL EMPLOYERS
MISSISSIPPI	NO PROVISION
MISSOURI	LAST EMPLOYER
MONTANA	LAST EMPLOYER
NEBRASKA	* LAST EMPLOYER
NEVADA	* LAST EMPLOYER
NEW HAMPSHIRE	* LAST EMPLOYER
NEW JERSEY	LAST EMPLOYER
NEW MEXICO	LAST EMPLOYER - 60 DAYS
NEW YORK	* ALL EMPLOYERS
NORTH CAROLINA	LAST EMPLOYER
NORTH DAKOTA	LAST EMPLOYER

020010

OHIO	LAST EMPLOYER
OKLAHOMA	LAST EMPLOYER - 60 DAYS
OREGON	LAST EMPLOYER
PENNSYLVANIA	LAST EMPLOYER - 6 mos.
RHODE ISLAND	ALL EMPLOYERS
SOUTH CAROLINA	LAST EMPLOYER - 1 yr.
SOUTH DAKOTA	LAST EMPLOYER - 60 DAYS
TENNESSEE	LAST EMPLOYER
TEXAS	LAST EMPLOYER
UTAH	LAST EMPLOYER
VERMONT	LAST EMPLOYER - 60 DAYS
VIRGINIA	LAST EMPLOYER
WASHINGTON	LAST EMPLOYER
WEST VIRGINIA	LAST EMPLOYER
WISCONSIN	LAST EMPLOYER
WYOMING	NO PROVISION

43- LAST EMPLOYER - SAME WITH QUALIFICATIONS AS TO
 MINIMUM EXPOSURE, MINIMUM DISBURSED FOR WARFARE,
 FALSIFYING EMPLOYMENT & MEDICAL HISTORY, ETC.; STATE
 FUNDS STATES INCLUDED

6 - ANNUAL APPORTIONMENT
 2 - NO PROVISION

51 - ALL STATES & DC

2015

20 - pre-10

72

62.2

60	111	3
61	1111	4
62	1111 111	2
63	1111 1111 1	11
64	1111 1111	10
65	1111 1111	9
66	1111 1111 1111 1	16
67	1111	5
		61

disability

152 59

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430

PC 620012

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



August 16, 1967

Mr. Fred L. Gardner
Armstrong Contracting and Supply Corporation
120 North Lima Street
Lancaster, Pennsylvania 17602

Dear Fred:

Subject: Asbestosis Claims

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[REDACTED]

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Mr. Fred L. Gardner

- 2 -

August 16, 1967

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Wallace B. Hofferth
Insurance Manager

LHW

John E. Zeller, AC&S, 120 North Lima Street, Lancaster, Pennsylvania 17602