THE TRAVELERS INSURANCE COMPANY · THE TRAVELERS INDEMNITY COMPANY

ONE TOWER SQUARE
HARTFORD, CONNECTICUT 06115

December 21, 1966

Mr. Jack C. Else
Assistant Vice President
Marsh and McLennan
70 Pine Street
New York NY 10005

Dear Jack:

Johns-Manville

On November 1, 1966, a meeting was held here in Hartford to discuss claims that cancer allegedly is caused by exposure to asbestos. This meeting was attended by:

Mr. Fred Ingham, Jr., Insurance Manager, Johns-Manville Corporation
Mr. Cliff Sheckler, Manager, Industrial Relations and Safety, Johns-Manville Corporation
Mr. Paul Locke, Vice President, Marsh and McLennan
Mr. Fred Olson, Casualty Loss Control, Marsh and McLennan
Mr. Jack Larrick, Casualty Loss Control, Marsh and McLennan
Dr. Allen Dun, Casualty and Group Medical Department, Travelers
Secretary Schaldeman, Engineering, Travelers
Superintendent David Nash, Engineering, Travelers
Supervising Chemical Engineer Rapp, Engineering, Travelers
Supervising Underwriter C. Henry, Underwriting, Travelers
Assistant Secretary George Hatch, Casualty-Property Claim, Travelers

The discussion centered upon our Claim File B-740121, Ventnore Asbestos Company, Inc., Re: James Sullivan, wherein such a claim had been held compensable by the New York Workmen's Compensation Board. Mr. Sheckler expressed grave concern that a large number of such claims could now be anticipated and emphasized his opinion that such claims were without merit. We agreed to reexamine the situation in detail with a view toward the possibility of improving the defense to such claims and to report back.

James Sullivan worked for some 18 years as an insulation mechanic and pipe coverer. In such employment, he used much magnesia block which contains 15% asbestos, and asbestos cement. Sometime in August, 1963, he

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complained of abdominal pain. He last worked on January 10, 1964, and was hospitalized on January 16, 1964. He died May 26, 1964, of adenocarcinoma of the sigmoid colon with extensive metastasis. Special microincineration technique, combined with electron microscopy, was reported as demonstrating the presence of asbestos fibers in his lungs and colon.

We controverted the claim that was presented under the New York Workmen's Compensation Law. Dr. Irving J. Selikoff was produced to testify on behalf of the claimant and expressed the opinion that it was highly probable that there was a causal relationship between the deceased's occupational exposure to asbestos and the adenocarcinoma of the colon. The following quotation from his testimony provides the essential basis for his opinion:

"The problem of neoplasm of the colon in individuals exposed to asbestos and particularly in insulation work is rather new and I might say rather as a surprise to us. We knew that asbestos was a material that could produce neoplasms and indeed could produce various neoplasms. This was known not only by the very marking in the incidence of cancer in the lung among individuals exposed to asbestos, but also in the last several years by the finding of very large numbers comparatively of another tumor, namely, mesothelioma both in the pleura and the peritoneum in individuals exposed to asbestos. This last tumor has until recent years been exceedingly rare at Mt. Sinai. From 1930 to 1960, we saw only two cases. The world literature when reviewed about five years ago only produced some 13 cases of those that had been autopsied and, yet, among individuals exposed to asbestos at the present time, we find very frequently in the group of men we have been studying of some 307 consecutive deaths we have had 14 deaths due to mesothelioma. In individuals not exposed to asbestos, the tumor is so rare that it is not even separately coded among causes of death in the international classification of diseases, and in the last 32,000 consecutive deaths in the American Cancer Society Smoking Study, there have only been three listed as due to mesothelioma in the general population. So that we knew that asbestos had significantly neoplastic potentialities. Also, we have been able to reproduce neoplasms in animals with asbestos in our own laboratory. We have been able to produce mesothelioma of the pleura with pure asbestos. It was not, however, until we analyzed our experience among the members of the union to which Mr. Sullivan belonged that we found that gastrointestinal cancer was also significantly increased. With the cooperation of Doctor Hammond, who is the director of Statistical Research to the American Cancer Society, we analyzed our experiences in the particular union we were studying. In the group of men under observation, knowing their ages, we were able to calculate that approximately nine cancers of the gastrointestinal tract should

should have occurred between 1943 and 1962, in that 20-year period. Actually, 29 occurred, three times as much. These experiences went to the end of 1962, and were based upon 255 consecutive deaths. We have had 60 deaths since then in this union. In the 60 deaths, we would have anticipated approximately one or two cancers of the gastrointestinal tract. We have had seven, indicating that our experiences in the first group are being confirmed. Because of these observations, we have undertaken some experimental studies, the results of one which I have just given you. That is, we are able, utilizing a special oxygen ashing technique to demonstrate asbestos particles in the colon. Why asbestos in the colon or anywhere else results in the neoplasm we don't know. We don't know whether the particles by chemical or physical irritation cause sufficient irritation to result in neoplastic change or whether the chemical make-up of the material is directly neoplastic or whether the presence stimulates some preexisting virus which is carcinogenic. These are very important questions. They are of highly theoretical level, but we are very concerned with them because they may hold the key to the problem of causation of cancer in general. Indeed, the subject of asbestos and cancer is one of the most interesting in all of cancer research today because it is the only cancer producing substance known which is also a marker. All other cancer producing substances cannot be seen by the microscope or any other way. We have many chemicals that will produce cancer, but there is no way of seeing them. Yet, this particular substance can be seen under the microscope and it's permanent, it's rock as you know, it's a mineral, and has, as has been said, it has a half life of infinity, and once it gets into the body it can be found there 50 years later. So that it is a very interesting material for the study of the production of cancer in general. This is one of the reasons for our study of this group of men. We hope we may get some leads, some hints, on the problem of the basic cause for cancer. In view of these experiences with this group of men, we have come to the conclusion that it is highly probable that cancer of the colon at least in men industrially exposed to asbestos is to be very strongly considered and we believe it is so."

When the doctor was asked whether he had been able to demonstrate the presence of asbestos fibers in the gastrointestinal tract, he answered:

"Yes, we have, and we have also been able to demonstrate asbestos bodies in the intestinal tract. This is a little different. Asbestos bodies are asbestos fibers that have become coated with a colloidal material which contains a good deal of protein

and a good deal of iron. It is a sign of body reaction to the fiber, and we have also both in humans and some experimental animals been able to demonstrate asbestos bodies in the tissues."

When the doctor was asked how asbestos gets into the gastrointestinal tract, he answered:

"There is reasonably good evidence to indicate that dust inhalation in general loads the intestinal tract far more than it loads the lung. Many people breathe in air, the particular matter in the air impinges upon the back of the throat and mixes with the mucus which is then swallowed. Some studies done with radioactive tagged dust much more is found in the first several days, for example, in the gastrointestinal tract than in the lung, and even when material is placed directly into the lung and none is in the intestinal tract, several days later it is found to a large extent to be in the intestinal tract because the lung clearing mechanisms bring it up to the mouth and it is then swallowed. So that the intestinal tract bears a very heavy burden in all dust exposures. This is possibly the reason why the incidence of gastrointestinal cancer is now being found to be unexpectedly among uranium miners, and very careful studies are now being done in this group of men."

Doctor Selikoff's opinion was thus based on: (1) suggestive medical statistics, (2) a prolonged and intimate asbestos exposure, (3) histological diagnosis of carcinoma, (4) verified presence of asbestos in lung and colon.

We produced Dr. William J. Hoffman, 153 East 72nd Street, New York City, to testify in our behalf. He testified that he felt there might be an indirect relationship between the deceased's exposure to asbestos and the adenocarcinoma of the colon. The following quotation represents the substance of his testimony:

"My reason for saying, indirect, comes from an analysis of the cases of cancer of the lung, found in these same workers exposed to asbestos. The asbestos dust enters the lungs and, after a long time, becomes coughed off with a mucous material in which there is a great deal of iron deposits. The tiny particles of asbestos which is almost too small to be seen by any microscope using visible light becomes large enough to become stained and demonstrated by a pathologist in a laboratory, but if one does not specially prepare the sections, one look at a section of lung in a man so exposed to asbestos and not finding anything there although the particles are there too small to be seen by the average technician. When these individuals develop cancer of the lung after exposure to asbestos, they are studied and it is found that everyone of them has been a smoker. In

cancer of the lung in asbestos workers which I have seen, possibly a half dozen cases in 30 years, I have never known one who had a cancer of the lung who was not a cigarette smoker, and a man may work at this occupation all of his life and never get a cancer of the lung, if he does not smoke. The factor then has been recognized for about 50 years, and I accepted it about 35 years ago, when I first began to study it, that it is the tobacco that caused the cancer, but there is some indirect relationship by which his liability of getting a cancer of the lung is increased about six times so that there are seven times as many cancers in the lung of asbestos workers who smoke than there are in the population at large. I have a strong suspicion that we can't ignore it, that the colon does show in the asbestos worker a three to one relationship in the same direction. That is, a man who is exposed to asbestos has a certain liability to develop it and a man who is not exposed to asbestos has a minimal chance to. There is certainly ability to develop cancer of the colon if he works in the asbestos industry and ingests or inhales the asbestos and asbestos carried down and deposited in the colon the occurrence of cancer in the colon or stomach or both is three times as high as in the not exposed. Those men have not yet been studied in their smoking habits, and I am unable to answer that question, so, when I came here this morning, I can only admit that there may be the same relationship there as there is in the lung; however, this man was not a smoker."

The referee was thus confronted with the categorical opinion of Doctor Selikoff in support of the claim and Doctor Hoffman's testimony which did not categorically deny causal relationship or attribute the development of cancer to some other cause. The best Doctor Hoffman could do was to suggest that the evidence of causal relationship is only such as to warrant further research.

A review with our Medical Department indicates that we have nothing to categorically contradict the testimony of Doctor Selikoff. Doctor Dun reports that the medical literature suggesting a relationship between asbestos and some varieties of cancer is quite impressive:

(a) Long term asbestos workers demonstrate an incidence of carcinoma of the lung six to seven times that expected.

(b) Mesothelioma of the pleura has an unusual frequency in long term asbestos workers. This tumor has been reproduced in experimental animals by asbestos installation.

(c) Long term asbestos workers demonstrate cancer of the stomach, colon, and rectum three times as frequently as

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expected. Microincineration and electron microscopy techniques allegedly demonstrate asbestos fibers in the intestinal tract of long term asbestos workers.

Until medical research provides data with which to disprove the premises propounded by Doctor Selikoff, we can expect that invariably his type of testimony will result in a favorable finding for claimants. Doctor Dun does suggest that we can at least limit claims to those where:

1. The malignancy develops in an anatomic location having a direct, sustained contact with asbestos fibers. To date, the only anatomic sites where asbestos fibers have been demonstrated are the lung and the lining of the gastrointestinal tract.

2. Claims involving only carcinoma of the lung, mesothelioma of the pleura or peritoneum, or carcinoma of the stomach, colon or rectum. Only in these malignancies has suggested medical literature been developed in relation to asbestos exposure.

3. The diagnosis of carcinoma is substantiated by pathologic microscopic examination.

4. There is pathologic confirmation of asbestos fibers or asbestos bodies in the tissues in which the carcinoma developed.

5. Where there is substantiation of a long term exposure to asbestos fibers and the absence of protective devices, such as respirators or masks.

This certainly is not a very encouraging report. We will welcome any material that comes to your attention or to our insured's attention that bears on this general issue, and we will also welcome any opportunity for further discussion and exchange of ideas.

Very truly yours

George W. Hatch, Assistant Secretary
Casualty-Property Claim Department

GWH:AC