October 4, 1955

Herlihy & Herlihy
Attorneys at Law
Suite 516 Park Central Bldg.
412 West Sixth Street
Los Angeles 14, California

Re: Gene E. Howerton
Case No. 55 LA 162-325

Dear Mr. L. H. Herlihy:

Mr. Howerton was born June 16, 1928, his last known address is P.O. Box 757, Lompoc, California. He is married and has a wife and two minor children.

He was first employed by Johns-Manville Products Corporation at the Lompoc plant on December 26, 1952 as a Carpenter in the Carpenter Shop where he continued to work as a maintenance carpenter until August 5, 1955 at which time he resigned alleging dust had been bothering him and affected his breathing. Subsequent to his resignation he filed an ~~application~~ Application with the Industrial Accident Commission.

As a maintenance carpenter Howerton worked in and out of our carpenter shop and around various locations on company property. Throughout his employment with us he had little exposure to dust, prior to employment with Johns-Manville Howerton has stated he worked from 1945 to 1952 as a plumber, carpenter and plasterer.

I have discussed this case with our plant physician, Dr. Hilton V. Duncan who tells me Howerton underwent a routine annual examination in August, 1955 at which time his chest x-ray indicated possible earliest changes from pneumoconiosis but that these changes were not serious or anything to be alarmed about. However, Howerton became quite upset and alarmed and as a result resigned from his job.

Attached is report in triplicate from Dr. Hilton V. Duncan dated September 15, 1955.

From the manner in which Howerton has prepared his application it would appear that he is filing his case with the apparent intention of having the case put off calendar and in this way protecting his possible future rights without jeopardy under the statute of limitations. It is our belief and confirmed by our doctors opinion that Howerton is not and throughout his lifetime will never suffer disability from dust exposure encountered at our Lompoc plant. This case is typical of a trend that seems to be developing here, in that many people who leave their jobs at Lompoc regardless of their dust exposure or their physical condition immediatley proceede to file claims off calendar. Apparently as future insurance against possible

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disability. Where disability is imminent or even foreseeable this may be a wise and proper procedure. However, if it occurs to me it may not be the best procedure in cases such as Howerton's.

What do you suggest in the way of legal defense in claims such as this one? Where there is not any likelihood of disability ever occurring.

Yours very truly,

J. E. Gilmore
Industrial Relations

JEG:mm
enc: (1)

cc: C. P. Burnett - GHQ
H. M. Ball
H. M. Jackson
File

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