IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
AUG 13 1968
James R. Cooney, Clerk, U. S. Court
By Evelyn G. Walker DEPUTY

CLAUDE J. TOMPLAIT		
VS.		CIVIL ACTION NO. 5402
COMBUSTION ENGINEERING, INC., ET AL		

REQUEST FOR ADMISSIONS

TO: CLAUDE J. TOMPLAIT, PLAINTIFF, AND/OR HIS ATTORNEY OF RECORD, THE HONORABLE WARD STEPHENSON, STEPHENSON BUILDING, ORANGE, TEXAS:

The defendant, Fibreboard Paper Products Corporation, requests plaintiff, Claude J. Tomplait, within twelve (12) days after service of this request, to make the following admissions for the purpose of this action only, and subject to all pertinent objections to admissibility which may be interposed at the trial:

1. That plaintiff's original claim for workmen's compensation under the Workmen's Compensation Law of Texas was filed on December 14, 1961, against his employer, Armstrong Contracting & Supply Company.

2. That a true and correct copy of said original claim filed for workmen's compensation on December 14, 1961, with the Industrial Accident Board of Texas is attached.

3. That plaintiff stated in his claim before the Industrial Accident Board that the first distinct manifestation of occupational disease began in July, 1961, and that he sustained injury to his body caused by asbestosis and silicosis which caused pulmonary fibrosis.

4. That plaintiff filed an amended claim for occupational disease with the Industrial Accident Board of Texas dated February 24, 1962, on March 3, 1962, a true and correct copy of which is attached to these requests.

5. That a true and correct copy of plaintiff's amended claim dated February 24, 1962, and notice of injury from occupational disease filed with the Industrial Accident Board of Texas on March 3, 1962, is attached.

6. That in the amended claim dated February 24, 1962, plaintiff asserted a claim against Armstrong Contracting & Supply Company and its workmen's compensation carrier, The Aber Company, Industrial Insulating, John Mansfield.

7. That the claim of February 24, 1962, filed with the Industrial Accident Board of Texas on March 3, 1962, was supplemented and amended by letter of plaintiff's attorney dated June 18, 1962, filed June 19, 1962, with the Industrial Accident Board, a true and correct copy of which is attached.

8. That in the letter of June 18, 1962, plaintiff stated that his incapacity began on approximately the 26th day of July, 1961, and he claimed exposures to the hazards of occupational disease of asbestosis and silicosis.

9. That the plaintiff's employment with The Aber Company on which his claim was made was subsequent to the first manifestation of the disease which began on or prior to July 26, 1961.

10. Plaintiff first saw Dr. John Greco on or about March 14, 1961, for chest trouble.

11. That plaintiff, Claude J. Tomplait, had a complete physical examination by John C. Greco, M. D., of Bridge City, on or about July 26, 1961.

The Tomplait v. Combustion Engineering Case File (1962-1969), Requests for admission to plaintiff with exhibits Published by AsbestosClaims.Law
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12. That Dr. Greco referred plaintiff to Dr. Tom R. Jones, of Houston, Texas.

13. That Dr. T. R. Jones examined Claude J. Tomplait on August 1, 1961.

14. That Dr. T. R. Jones advised plaintiff that he had pulmonary fibrosis secondary to inhalation of asbestos fibers, silicates which contain some degree of silica.

15. Dr. T. R. Jones told Claude J. Tomplait to get out of the insulation industry and if he did not he would suffer further injury and damage to his body.

16. That plaintiff, Claude J. Tomplait, filed the report of Dr. T. R. Jones with the Industrial Accident Board on August 23, 1962.

17. That a true and correct copy of the report of Dr. T. R. Jones is attached.

18. That on August 22, 1962, attorney for plaintiff, Ward Stephenson, filed a letter with the Industrial Accident Board, filed August 23, 1962, a true and correct copy of which is attached.

19. That plaintiff asserted in the hearing before the Board that his incapacity began on approximately the 26th day of July, 1961.

20. That a true and correct copy of judgment in Cause No. A-13,916-A, Claude J. Tomplait vs. The Travelers Insurance Company and Texas Employers' Insurance Association rendered in the 128th District Court of Orange County on the 16th day of September, 1964, is attached. Such judgment was a final judgment.

The Tomplait v. Combustion Engineering Case File (1962-1969), Requests for admission to plaintiff with exhibits Published by AsbestosClaims.Law
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21. That a true and correct copy of judgment entered in Cause No. A-13,916, Claude J. Tomplait vs. Queen Insurance Company, rendered on May 26, 1966, is attached.

22. That on December 8, 1967, plaintiff, Tomplait, admitted he could not say which product or products caused him harm.

23. That Claude J. Tomplait cannot identify any particular product as the product which caused him harm.

24. That Dr. Tom Jones advised plaintiff on or about August 1, 1961, "the only thing I can advise you to do is to get out of that business and quit smoking."

25. That Dr. T. R. Jones told plaintiff if he wanted to live - "he said if I want to live, he said I wouldn't get no better or no worse if I just quit."

26. That Dr. Tom Jones told plaintiff on or about August 1, 1961, at the time of his examination that his lungs had a lot of insulation materials on them and that both lungs were in a bad condition.

27. That on the same date that Dr. T. R. Jones advised plaintiff that he had insulation materials on his lungs, he told him to get out of the insulation business and quit smoking all together.

28. After Tomplait went over to Houston and saw Dr. T. R. Jones on or about August 1, 1961, he knew that insulation materials would do him harm.

29. That after Tomplait saw Dr. T. R. Jones in Houston, on or about August 1, 1961, he knew that he might sustain further injury by coming in contact with asbestos insulating material.

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30. That from and after the time that Tomplait saw Dr. T. R. Jones, he did not need anyone to tell him that he was getting more of the asbestos dust in his lungs when he worked with it, and he knew that it was harmful.

31. That after he saw Dr. Jones on or about August 1, 1961, he continued to do the same type of insulation work through the year 1964, with full knowledge that he was subjecting himself to possible injury.

32. That Claude J. Tomplait testified under oath: "So that after Dr. Jones saw you in July of 1961, you continued to do this type of work right through 1964, with full knowledge that you were subjecting yourself to possible injury? Answer: That's right."

33. That Claude J. Tomplait knew at all times that the products he was working with contained asbestos.

34. That Claude J. Tomplait knew at all times when he was working in close places that he was being exposed to an excess amount of dust and that the asbestos products created dust.

35. That Claude J. Tomplait knew that he was creating dust from the asbestos insulation products by sawing into and cutting them in the process of his work.

36. That Claude J. Tomplait knew that the sawing and cutting of the products with which he was working created dust particles in the air which he would breathe into his nose.

37. That the plaintiff, Claude J. Tomplait, does not know of any date on which he worked with any product manufactured by Fibreboard Paper Products Corporation.

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38. That this defendant did not supply any insulation products to B & B Engineering & Supply Company on the DuPont Plant job in Orange, Texas, in the year 1959.

39. That this defendant did not supply any insulation products to Brooks-Fisher Insulating Company at the Gallitan Power House job in Gallitan, Tennessee, in the year 1959.

40. That this defendant did not supply any insulation products to The Fluor Corporation, Ltd. at Kaplan, Louisiana, on the Cow Island job in the year 1960.

41. That this defendant did not supply any insulation products to B & B Engineering & Supply Company, Inc. at the DuPont Plant job in Orange, Texas, in the year 1960.

42. That this defendant did not supply any insulation products to Armstrong Contracting and Supply Corporation at the Firestone Plant job in Orange, Texas, in the year 1960.

43. That this defendant did not supply any insulation products to Armstrong Contracting and Supply Corporation at the Firestone Plant job in Orange, Texas, in the year 1961.

44. That this defendant did not supply any insulation products to The Aber Company, Inc., at the Gulf States Power House job in Bridge City, Texas, in the year 1961.

45. That this defendant did not supply any insulation products to The Aber Company, Inc., at the Gulf Oil Refinery job, in Port Arthur, Texas, from March, 1962 to May, 1962.

46. That this defendant did not supply any insulation products to Sabine Insulation Company, Inc., at the Firestone Plant job, in Orange, Texas, and at the Levingston Shipbuilding Company job in Orange, Texas, in the year 1962.

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47. That this defendant did not supply any insulation products to Armstrong Contracting and Supply Corporation at the Firestone Plant job in Orange, Texas, in the year 1962.

48. That this defendant did not supply any insulation products to Johns-Manville Sales Corporation at the Bridge City Power House job in Bridge City, Texas, in the year 1962.

49. That this defendant did not supply any insulation products to B & B Engineering & Supply Company, at the Big Three Welding Plant job in Orange, Texas, in the year 1962.

50. That this defendant did not supply any insulation products to The Aber Company at the Gulf States Power House job in Bridge City, Texas, from about November 30, 1962 to January 18, 1963.

51. That this defendant did not supply any insulation products to Sabine Insulation Company, Inc. at the Firestone Plant job in Orange, Texas, and the Levingston Shipbuilding Company job in Orange, Texas, in the year 1963.

52. That this defendant did not supply any insulation products to B & B Engineering Company, at the DuPont Plant job in Orange, Texas, in the year 1963.

53. That this defendant did not supply any insulation products to Insulation Engineers, Inc. on some refinery job in Pascagoula, Mississippi, in July and August, 1963.

54. That this defendant did not supply any insulation products to Triangle Insulation Company on the Houston Chemical Plant job, in Beaumont, Texas, in the year 1963.

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55. That this defendant did not supply any insulation products to B & B Engineering & Supply Company on the Big Three Welding Company plant job in Orange, Texas, during the month of January, 1964.

56. That this defendant did not supply any insulation products to Triangle Insulation Company on the Houston Chemical Plant job in Beaumont, Texas, in the year 1964.

57. That this defendant did not supply any insulation products to Industrial Insulation, Inc. on the Jefferson Chemical Plant job, in Port Neches, Texas, in the year 1964.

58. That this defendant did not supply any insulation products to Industrial Insulation, Inc. on the Atlantic Refinery job, in Port Arthur, Texas, in the year 1964.

59. That this defendant did not supply any insulation products to Sabine Insulation Company, Inc. on the Firestone Plant job in Orange, Texas, and the Levingston Shipbuilding Company job, in Orange, Texas, in the year 1964.

60. That this defendant did not supply any insulation products to Johns-Manville Sales Corporation on the Gulf States Power Plant job in Bridge City, Texas, in the year 1964.

DATED this 13th day of August, 1968.

GEO. A. WELLER
WELLER, WHEELUS & GREEN
P. O. BOX 350
BEAUMONT, TEXAS 77704
ATTORNEYS FOR DEFENDANT,
FIBREBOARD PAPER PRODUCTS CORPORATION

I certify that a copy of the foregoing request for admissions was served on Mr. Ward Stephenson, Stephenson, Thompson & Morris, Stephenson Building, Orange, Texas 77630, attorney for plaintiff, by mailing a copy by certified mail on the 13th day of August, 1968; and a copy was served on all other attorneys of record by mailing a copy to their respective addresses by regular mail on the 13th day of August, 1968.

GEO. A. WELLER

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NOTICE OF INJURY AND CLAIM FOR COMPENSATION
Texas Workmen's Compensation La

[redacted]

Claud J. Tomplait

Armstrong Contracting and Supply Co. 7310 Ardmore St. Houston, Texas

First distinct manifestation of occupational disease in July, 1961 in Orange County, Texas

Were You Hired in Texas? Yes

If Accident Occurred Outside Texas, On What Date Were You Transferred to State Where Accident Occurred?

Did You Work in Texas for This Employer Before Being Transferred?

I Was Working 8 Hours per Day 5 Days per Week at $ 4.265 per hour

My Average Weekly Wage Was $ 170.00

How Long Had You Been Working For This Employer? Approximately nine months

Were You Paid Wages for Date of Injury? Started Losing Time On

Are You Now Receiving Compensation? Have You Been Paid Any Compensation? If So, How much per Week? For How Many Weeks Have You Been Paid?

Have You Returned to Work? If So, On What Date? At What Wage?

Describe Accident and Your Injury in your own words: Injury to my body caused by asbestosis and silicosis causing severe external and internal injuries including; pulmonary fibrosis, restrictive ventilatory defect, and arterio-desaturation.

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TEXAS INDUSTRIAL ACCIDENT BOARD

Was Any Part of Your Body Amputated? No If So, Name Number and Give Point of Amputation

Were You Sent to a Doctor or Hospital By Your Employer or His Insurance Company?

PLEASE GIVE AS MUCH OF THE FOLLOWING INFORMATION AS YOU HAVE

Name and Address of Doctor: Dr. T. R. Jones, 1608 Memorial Professional Building, Houston, Texas

Name and Address of Hospital:

Name and Address of Nearest Relatives: Wife: Gladys Tomplait, R. R. 2, Box [illegible], Mt. Enterprise, Texas

I hereby give notice of injury and file claim for compensation due me under Workmen's Compensation Law of Texas.

I REQUEST THAT THE INDUSTRIAL ACCIDENT BOARD CHECK ONE

☐ Not Take Further Action Until Requested to Act
☒ Act on My Claim as Soon as Possible

Witness to Signature

Claud J. Tomplait
Signature of Employee

P. O. Box 507
Street Address

Bridge City, Texas
City and State

W-6229

STEPHENSON, STEPHENSON AND THOMPSON
ATTORNEYS AT LAW
STEPHENSON BUILDING
ORANGE, TEXAS

December 11, 1961

Industrial Accident Board
Walton Building
Austin, Texas

Re: Claude J. Tomplait vs. Armstrong Contracting and Supply Company

Gentlemen:

In behalf of the above named person, we are enclosing notice of injury and claim for compensation. This document is self-explanatory. Please acknowledge receipt.

Yours truly,

STEPHENSON, STEPHENSON AND THOMPSON

Ward Stephenson

Encl.

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DEC 13 1961
TEXAS INDUSTRIAL ACCIDENT BOARD

(6)

CLAIM FOR COMPENSATION FOR INJURY FROM OCCUPATIONAL DISEASE

Industrial Accident Board
Austin, Texas

IMPORTANT — (This claim must be made out in duplicate and each question carefully and correctly answered within SIX MONTHS following infliction of injury, one copy to be mailed or delivered to your Employer or his or its Insurance Carrier, and one copy to the Industrial Accident Board at Austin, Texas.)

This is to notify you Armstrong Contracting & Supp[redacted] (Name of Employer) (See Note 1) Travelers Ins. Co.

that I, Claude J. Tomplait, Social Securit[redacted] m compensation under the Employers' Liability Act for personal injury from o[redacted] ile in the course of my employment for Armstrong Contracting and [redacted] (Be careful to give correct name of employer)

at Orange (City or Town) Orange (County) Texas.

The nature of said occupational disease is as follows: Severe external and internal injuries including pulmonary fibrosis, restrictive ventilatory defect, and arterio-desaturation. (Describe fully the exact nature of said disease.)

The first distinct manifestation of said disease occurred on the day of July, 1961, at Firestone plant in Orange, Orange County, Texas. (Give exact location or name of place where said manifestation occurred.)

My incapacity from said disease began on the day of July, 19 1961.

The cause of said occupational disease was as follows: Asbestosis and silicosis. (State fully the cause, giving the length of time employed in such occupation.)

I was last injuriously exposed to the hazards of such disease on the day of 19, while employed by currently employed by Armstrong Contracting & Sup. Corp. (Name of employer)

in the City of Orange, Orange (County) Texas. (If not in any city or town, give exact location of place of employment, giving county and state.)

My rate of pay on the date my incapacity began was $2.265 per hour. (Hour, day, week or month.)

Hours worked per day 8 (Number) Days worked per week 5 (Number)

Were you paid full wages on date your incapacity began? Uncertain

Length of time regularly employed in same employment for this employer previous to the date incapacity began: 9 months (Years, months or days) Give names and post office addresses of all witnesses in support of this claim for compensation Various names and [illegible]

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TEXAS INDUSTRIAL ACCIDENT BOARD

Were you furnished medical attention when incapacity began? Yes

If so, give name and address of doctor Dr. John C. Greco (Name of doctor) Beaumont (City or Town) Texas.

Have you worked for said employer or for any other person, firm or corporation since your incapacity began? Yes. If yes, state how long and for whom you worked See attached sheet

Describe your present condition as nearly as possible. Injury to my body caused by asbestosis and silicosis causing severe external and internal injuries, namely, pulmonary fibrosis, restrictive ventilatory defect, and arterio-desaturation.

Witness to Signature:

Jesse D. Luttrell
Signature of witness

P.O. Box 68, Orang, Texas
Address of witness

Claude J. Tomplait
Signature of Claimant

Give permanent or mail address in order that you will receive all your mail.

P. O. Box 507
Street and number or R. F. D.

Bridge City, Texas
City or Town

Dated this 24th day of February, 1962

(5)

CLAIM FOR COMPENSATION FOR INJURY FROM OCCUPATIONAL DISEASE

Claude J. Tomplait
P. O. Box 507
Bridge City, Texas

I.A.B. Case No. H-67299 Claude J. Tomplait vs. Armstrong Contracting and Supply Corporation

Have you worked for said employer, or for any other person, firm or corporation since your incapacity began? Yes.
If yes, state how long and for whom you worked.

Armstrong Contracting & Supply Company, Houston	2-3 weeks
The Aber Company, Houston	3 months
Industrial Insulating, Houston	4 weeks
John Mansville, Houston	2 weeks
Armstrong Contracting & Supply Company, Houston	1 week

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VW-67299

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STEPHENSON, STEPHENSON AND THOMPSON
STEPHENSON BUILDING
OLNEY, TEXAS

March 1, 1962

Industrial Accident Board
Capitol Station Building
Austin, Texas

Re: I.A.B. No. VW-67299; Claude J. Tomplait, Va.
Armstrong Contracting and Supply Corporation

Gentlemen:

In accordance with your Status of Claim, we are enclosing Forms 148 and 149 which have been completed and signed by the claimant, Claude J. Tomplait.

Yours truly,

STEPHENSON, STEPHENSON AND THOMPSON

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Ward Stephenson

Encl. 2

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STEPHENSON, STEPHENSON AND [illegible]
STEPHENSON BUILDING
ORANGE, TEXAS

June 18, 1962

[illegible] Accident Board
[illegible]ton Building
Austin, Texas

Re: T.I.A.B. Case No. W-67299, Claude J. Romp[illegible] vs.
Armstrong Contracting and Supply Corporation

Gentlemen:

In reply to your letter of May 23, 1962 [illegible] the following information:

1. Claimant [illegible]ded on approximately July [illegible], 1961.

2. Claimant was exposed to the hazard of occupational disease while employed as follows:

a. Armstrong Contracting and Supply Corporation, Houston, from August 17, 1960 for approximately three weeks.

b. The Aber Company, Houston, from approximately September 7 to approximately the middle of January, 1962.

c. Industrial Insulating, Houston, for approximately one week during the month of October, 1961 while his craft was on strike at The Aber Company.

d. John Manville, Houston, from approximately the middle of January, 1962 to the middle of February, 1962.

e. Armstrong Contracting and Supply Company, Houston, for one week during the latter part of February, 1962.

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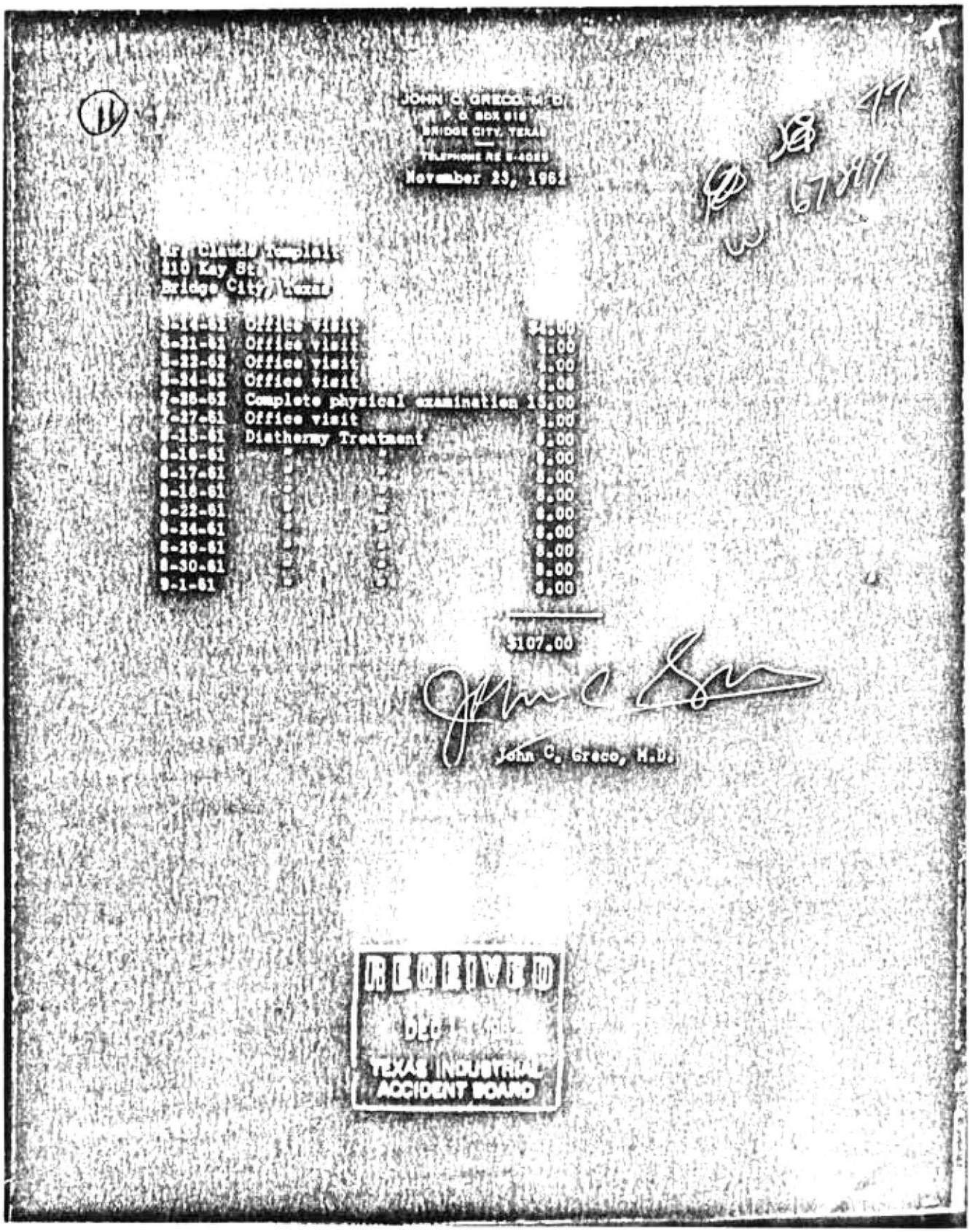
Please set the above claim for hearing before your Board as soon as possible and advise the date of such setting.

Yours truly,

STEPHENSON, STEPHENSON AND THOMPSON

Ward Stephenson

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JOHN C. GRECO, M.D.
P. O. BOX 816
BRIDGE CITY, TEXAS
TELEPHONE RE 8-4085

November 23, 1961

11

58 6711

Dr. Orval Tomplait
110 Kay St.
Bridge City, Texas

5-14-61	Office visit	$ 3.00
5-21-61	Office visit	3.00
5-23-61	Office visit	3.00
5-24-61	Office visit	3.00
7-26-61	Complete physical examination	15.00
7-27-61	Office visit	3.00
8-15-61	Diathermy Treatment	3.00
8-16-61	" "	3.00
8-17-61	" "	3.00
8-18-61	" "	3.00
8-22-61	" "	3.00
8-24-61	" "	3.00
8-29-61	" "	3.00
8-30-61	" "	3.00
9-1-61	" "	3.00
		$107.00

John C. Greco, M.D.

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ACCIDENT BOARD

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W-67299

STEPHENSON, STEPHENSON AND THOMPSON
STEPHENSON BUILDING
ORANGE, TEXAS

August 22, 1962

Industrial Accident Board
State Insurance Building
Austin, Texas

Re: I.A.B. Case No. W-67299 Claude J. Tomplait vs. Armstrong Contracting & Supply Corporation, et al

Gentlemen:

We are enclosing signed copy of Dr. T. R. Jones' medical report as a result of his examination of the claimant on the 1st day of August, 1961, together with employee's notice of hearing and statement which has been completed and signed by Mr. Tomplait.

This case was set for hearing before your Board on the 21st day of August, 1962 and the claimant respectfully requested a ten-day extension in order that these papers might be submitted to your office. Please consider the above mentioned documents as evidence in support of this claim when rendering your award.

Yours truly,

STEPHENSON, STEPHENSON AND THOMPSON

Ward Stephenson

Ward Stephenson

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Encl. 2

(17)

MEDICAL REPORT

Mr. Claude J. Tomplait
210 Kay
Bridge City, Texas

[illegible] Mr. Claude J. Tomplait, [illegible], with the chief complaint of dyspnea on exertion, tightness in the chest, malaise, loss of appetite and clubbing of the fingers. The patient stated that he has been working for the past 21 years in the insulation business, and his job consists of installing insulation material of various kinds, including asbestos; foam glass, fiberglass, rock wool, magnesium silicates and various other types of insulating materials. He has never used a face mask during this entire period of time, and the dusty element is quite considerable at his face level. The material has to be cut with a saw or a knife which, with the handling, creates considerable dust. Approximately two years ago, he noted onset of tightness in his chest and shortness of breath on exertion. He noticed this predominately on climbing stairs, and this was quite incapacitating. He is able to walk along a flat surface without trouble. He denies any wheezing or asthmatic episodes. He does not cough, and when he does it is only a dry cough. He denies having any chest pain. He has never been hospitalized for pneumonic episodes. He denies having any swelling of the ankles or legs.

Two weeks ago, the patient's attention was called to the presence of clubbing of the fingers, which he had never particularly noticed before.

REVIEW OF SYSTEMS: Completely Noncontributory

PAST HISTORY: Negative.

Operations: Negative.

PHYSICAL EXAMINATION: Reveals a well developed, slender, white male, 49 years of age, in no acute distress. He is rather tanned, but does not have any excess pigmentation. There is marked clubbing without cyanosis of the fingernails and toes.

MENTAL: Negative.

HEAD AND NECK: Negative. [illegible]

THORAX: The costal margins move fairly well on deep inspiration. Fremitus is normal throughout. Breath sounds are reduced in both lower lobes, but the diaphragmatic excursions is equal to approximately 4 cm. bilaterally. No wheezes noted on hyperventilation. No rales heard.

HEART: Accentuation of P2 on leaning forward. No cardiomegaly. No murmurs.

ABDOMEN: Negative

GENITALIA: Negative

RECTAL: Deferred

EXTREMITIES: No edema. Pulsations normal.

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Review of pulmonary function evaluation reveals that arterial blood gas studies showed that PH at rest was 7.42 and after exercise dropped to 7.36 and rose to 7.41 after oxygen. Carbon dioxide tension in millimeters of mercury was normal at rest, slight rise after exercise and normal after oxygen. Oxygen saturation was normal at rest, but definitely dropped to 93 after exercise and rose to normal after inhalation of oxygen.

These findings are indicative of a diffusional defect compatible with an alveolar capillary block syndrome.

Total function studies revealed a vital capacity supine at 3027/66 with a predicted of 3,724, which is 81% of normal. Timed vital capacity was as follows: One second - 76%; three seconds - 99%. Maximum breathing capacity; 94 liters observed per minute; predicted 106; Percent of predicted was 89%. Breathing reserve was 91%. Air velocity index, 1.1. Interpretation was a mild or moderate restrictive ventilatory defect. Residual volume total lung capacity shown 29%, which is well within normal limits.

There is no evidence from these studies of any degree of pulmonary emphysema, but primary of pulmonary fibrosis.

Review of films taken at Grace Memorial Hospital, Orange, Texas, dated 7-26-61, both PA and lateral views, reveals a definite prominence of bronchial vascular markings throughout, with irregularity of both diaphragms and blunting of both costophrenic angles. Horizontal fissure on the right is quite prominent. There is a granular intensification of both lower lobe areas. The lateral view reveals some pleural thickening at the posterior lung base, with no evidence of increased diameter of the chest. X-rays of the hands reveals characteristic tufts compatable with pulmonary osteo-arthropathy.

FINDINGS:

1. Pulmonary fibrosis secondary to inhalation of probably asbestos fibres, silicates which contains some degree of silica.
2. Restrictive ventilatory defect with evidence of arterio-desaturation with exercise and prompt rise of oxygen indicative of a alveolar capillary block syndrome.

FINAL DIAGNOSIS:

1. Pneumoconiosis
2. Probably early cor pulmonale

It is my opinion that pneumoconiosis in this patient has gradually developed over a period of 21 years. The pneumoconiosis has been severe enough the past 2 years to produce symptoms.

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TEXAS INDUSTRIAL
ACCIDENT BOARD

T. H. Jones, M. D.

NO. A-51,916-A

CLAUDE J. TOMPLAIT		IN THE DISTRICT COURT OF
VS.		ORANGE COUNTY, TEXAS
THE TRAVELERS INSURANCE COMPANY AND TEXAS EMPLOYERS' INSURANCE ASSOCIATION		128TH JUDICIAL DISTRICT

AGREED JUDGMENT

BE IT REMEMBERED, that on this the 16th day of September, 1964, the above entitled and numbered cause wherein Claude J. Tomplait is plaintiff and The Travelers Insurance Company and Texas Employers' Insurance Association are defendants is to be heard at an agreed setting, this cause having been transferred from Cause No. A-51,916 now pending in this court, and all parties having appeared in person and through their attorneys and announced ready for trial, and all having done all parties expressly waived the matters of fact in this cause, and the law, were thereupon submitted to the court, and the court, having heard the pleadings and evidence, find that this suit involves a claim for benefits under the Workmen's Compensation Law of Texas because of occupational disease suffered to have been sustained by plaintiff at various times while in the employment of Lumbermens Contracting & Supply Corporation and also while in the employment of Johns-Manville Corporation and/or Johns-Manville Sales Corporation prior to this date, the defendant, The Travelers Insurance Company, being the insurance carrier under said law for said Lumbermens Contracting & Supply Corporation at such time, and the defendant, Texas Employers' Insurance Association being the insurance carrier for said Johns-Manville Corporation and/or Johns-Manville Sales Corporation at such time; it

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TEXAS INDUSTRIAL ACCIDENT BOARD

plaintiff that he was injuriously exposed to the hazards of said occupational disease while in the employment of said employers.

The Court finds that plaintiff submitted a claim to the Industrial Accident Board of the State of Texas for such occupational disease, the same being No. V-6729 on the docket of said Board, that the final award of said Industrial Accident Board on said claim was made on the 18th day of December, 1962, that notice of appeal was timely filed by plaintiff and that this suit was duly and timely filed, thereby giving this Court jurisdiction herein;

It is therefore ORDERED by this Court that said award of said Industrial Accident Board, insofar as it applies to any claim against the defendants herein, be and the same is hereby set aside, vacated and held for naught.

Thereafter, it was made known to the Court that, subject to the approval of the Court, the parties had reached a compromise settlement of this suit and of all matters in controversy between them, under the terms of which it was agreed that plaintiff, Claude J. Tomplait, should recover judgment herein against the defendant, The Travelers Insurance Company, for the sum of FIVE THOUSAND ($5000.00) DOLLARS and should recover judgment herein against the defendant, Texas Employers' Insurance Association, for the further sum of ONE THOUSAND ($1000.00) DOLLARS in full compromise, settlement and satisfaction of all claims for workmen's compensation benefits that plaintiff, Claude J. Tomplait, may have under the Workmen's Compensation Law of Texas for occupational disease and any injurious exposure or exposures to the hazards of such disease at any time while in the employment of said Armstrong Contracting & Supply Corporation, Johns-Manville Corporation and/or Johns-Manville

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TEXAS INDUSTRIAL ACCIDENT BOARD

Sales Corporation) and the Court having found from the evidence that the liability of the defendants, The Travelers Insurance Company and Texas Employers' Insurance Association, each and both, and the extent of the disease and any injurious exposure or exposures to the hazards of said disease at any time while in the course and scope of plaintiff's employment for said employers are uncertain, indefinite and incapable of being satisfactorily established, and that said proposed compromise settlement of such claim under the Texas Workmen's Compensation Act is reasonable, fair and just, and that the same should in all things be approved and confirmed;

It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that the proposed compromise by and between the plaintiff and the defendants, The Travelers Insurance Company and Texas Employers' Insurance Association, whereby the plaintiff's agreed claim for workmen's compensation benefits that he might have under the Texas Workmen's Compensation Act for occupational disease and any injurious exposures to the hazards of said disease at any time while in the course and scope of his employment for the Armstrong Contracting & Supply Company, Johns-Manville Corporation and/or Johns-Manville Sales Corporation, be and the same is hereby in all things approved and confirmed; and when the defendants, The Travelers Insurance Company and Texas Employers' Insurance Association, comply with this judgment by payment of the amounts herein provided, the plaintiff shall thereafter have no claim of any type whatsoever under the Texas Workmen's Compensation Act for an occupational disease and any injurious exposures to the hazards of said disease as against said defendants or either of them.

And it further appearing to the Court that the said Claude J. Tomplait has been represented by the law firm of Segrest, Low

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Stephenson & Thompson, of Orange, Texas, before the Industrial Accident Board of the State of Texas and in this Court under a contract to pay said attorneys thirty (30%) per cent of any amount recovered, and said contract having been presented to the Court, and the Court having heard evidence thereon and having determined that a fee of thirty (30%) per cent out of the recoveries herein would be fair and reasonable and that the services of such attorneys were necessary and the Court having further taken into consideration the benefits accruing to Claude J. Tomplait as a result of said services, and having further found that benefits have accrued thereby and said fee of thirty (30%) per cent of this judgment was just and reasonable based upon said services performed and benefits accruing;

IT IS, therefore, ORDERED, ADJUDGED AND DECREED by the Court that said contract for attorneys' fees be, and the same hereby approved and confirmed.

IT IS further ORDERED, ADJUDGED AND DECREED by the Court that Claude J. Tomplait do have and recover of and from the Travelers Insurance Company the sum of FIVE THOUSAND ($5000.00) DOLLARS, and that said amount be paid in a lump sum of this claim.

IT IS further ORDERED, ADJUDGED AND DECREED by the Court that plaintiff, Claude J. Tomplait, do have and recover of and from the defendant, Texas Employers' Insurance Association, the sum of ONE THOUSAND ($1000.00) DOLLARS, payable in a lump sum.

IT IS further ORDERED, ADJUDGED AND DECREED by the Court that said sums herein decreed to plaintiff, Claude J. Tomplait, be apportioned, seventy (70%) per cent to the said Claude J. Tomplait and thirty (30%) per cent to his attorneys, Stephenson, Stephenson & Thompson.

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TEXAS INDUSTRIAL ACCIDENT BOARD

IT IS further ORDERED, ADJUDGED AND DECREED that the defendants each pay one-half (1/2) of the legally taxable court costs incurred herein up to and including this date; and that said defendants shall not be responsible for any court costs incurred [illegible] by any party.

IT further appearing to the Court, and the Court having found that prior to the signing and entry of this judgment, the full amount herein adjudged against said defendants has been in all things fully paid as provided herein, and that said judgment except as to costs of court has been in all things satisfied;

IT IS, therefore, ORDERED, ADJUDGED AND DECREED by the Court that no execution shall issue hereon to the Travelers Insurance Company or Texas Employers' Insurance Association and that this judgment shall stand fully and finally paid, satisfied, extinguished and forever, except as to costs of court incurred in this [illegible] cause.

IT IS further ORDERED, ADJUDGED AND DECREED that nothing herein shall be construed to be any waiver of the plaintiff of any rights, claims or causes of action that he has or may assert against the defendant Travelers Insurance Company.

RENDERED, ENTERED AND SIGNED, this 16th day of September, 1964.

/S/ James N. Noyes
JUDGE PRESIDING

APPROVED:

STEPHENSON, STEPHENSON AND THOMPSON

BY /S/ [illegible]
ATTORNEYS FOR PLAINTIFF, CLAUDE J. TOMPLAIT

STRONG, PIPKIN, STRONG AND NELSON

BY /S/ [illegible]
ATTORNEYS FOR DEFENDANT, THE TRAVELERS INSURANCE COMPANY

MARCUS AND WELLER

BY /S/ [illegible]
ATTORNEYS FOR DEFENDANT, TEXAS EMPLOYERS' INSURANCE ASSOCIATION

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We and each of us having requested the Court to render and enter the foregoing judgment, do now each hereby acknowledge full payment of the sum of FIVE THOUSAND ($5000.00) DOLLARS recovered by us from defendant, The Travelers Insurance Company, under the terms of the foregoing judgment, and likewise do hereby acknowledge full payment of the sum of ONE THOUSAND ($1000.00) DOLLARS recovered by us from defendant, Texas Employers' Insurance Association, under the terms of the foregoing judgment and do each hereby declare said judgment to be in all things fully paid, satisfied and released; and in consideration of the compromise of said suit and the entry of said judgment by agreement and full payment of same, as hereby acknowledged, we and each of us do hereby fully and finally release and discharge the said defendant, The Travelers Insurance Company, and the said defendant, Texas Employers' Insurance Association, each and both from all claims of any kind or character now accrued or that might accrue in the future by the reason of the occupational disease made the basis of this suit, and do each hereby declare and acknowledge that all claims and benefits accruing or to accrue in the future by reason thereof, including any and all claims for medical expenses or related benefits, are in all things fully and finally compromised, settled, paid and satisfied.

Signed this 16th day of September, 1964.

/s/ [illegible]
CLAUDE J. TOMPLAIT, PLAINTIFF

/s/ [illegible]

By /s/ Ward Stephenson
ATTORNEYS FOR PLAINTIFF

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SEP 17 1964
TEXAS INDUSTRIAL ACCIDENT BOARD

CB:fr 5/19/66

NO. A-13,916

CLAUDE J. TOMPLAIT	I	IN THE DISTRICT COURT OF
	I	
VS.	I	ORANGE COUNTY, TEXAS
	I	
QUEEN INSURANCE COMPANY OF AMERICA	I	128TH JUDICIAL DISTRICT

JUDGMENT

BE IT REMEMBERED that in the above styled and numbered cause, at an agreed setting thereof, came the parties in person, and by and through their attorneys, and announced ready for trial; and a jury having been by all parties expressly waived, the matters of fact, as well as those of law, were thereupon submitted to the court; and the court having heard the pleadings, the evidence offered and the argument of counsel; and it appearing to the court, and the court having found, that the accident and incapacity involved in this suit and controversy was sustained in the course of employment by Claude J. Tomplait, Employee, with The Aber Company, Employer, which injury and incapacity the court finds was sustained at some time while employed by The Aber Company; and it further appearing to the court, and the court having found that all jurisdictional matters had been complied with in accordance with requirements of the law, and the Industrial Accident Board of the State of Texas having jurisdiction of said claim, made and entered its final ruling, order and award in said claim and that thereafter, within the time allowed by law, notice of appeal was given and this suit was instituted; and it appearing to the court, and the court having found, that said injuries and incapacity occurred in the county in which this suit is pending; and this court having determined that it has jurisdiction herein to render a final and binding judgment fully and finally determining all claims and all controversies between the parties;

It is, therefore, ORDERED, ADJUDGED and DECREED by the court that the final order, ruling and award of the Industrial Accident Board of the State of

Texas, entered in such claim on December 18, 1962, being numbered W 67299, and there styled Claude J. Tomplait, Employee, vs. The Aber Company, Employer, and Queen Insurance Company of America, Insurer, be in all things vacated, set aside and held for naught, except insofar as the making and rendition of said final ruling, order and award was and is necessary to prevent said Industrial Accident Board of the State of Texas from again passing upon, vacating, modifying and determining said claim or any rights thereunder.

And thereafter it was announced to the court that the parties had agreed to a settlement of all controversies and suits, subject to the approval of the court, said settlement to be incorporated in a judgment whereby the plaintiff and plaintiff's attorney should recover of and from the said defendant the total sum of ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00), in full, final and complete payment of any and all claims for compensation which are asserted or that could be asserted by plaintiff as a result of or in any way in connection with the injury, disease, or conditions arising or existing while employed by The Aber Company, and involved in this suit, and likewise in full and final compromise, settlement and satisfaction of any and all claims that said plaintiff has or may have in the future under the Workmen's Compensation Law of Texas, for medical aid, hospital services, nursing, chiropractic services, rehabilitation, medicines, prosthetic appliances or other benefits of any kind or character, arising or accruing by reason of the injury, disease or condition arising while employed by The Aber Company, made the basis of this suit; and the court finds that such sum fairly and fully compensates plaintiff and all claiming by, through, and under plaintiff, for any and all compensation and for any and all medical, surgical, hospital and other aforesaid benefits both past, present, and future as a result of the injury in question.

And it further appearing that plaintiff and plaintiff's attorney had agreed upon an attorney's fee to be paid out of the amount of said settlement for his services in the matter; and it appearing that the said thirty per cent is a just and reasonable attorney's fee and in keeping with the services performed by said attorney and that the plaintiff had received advantages and benefits by and through such representation and that said fee is fair and reasonable, and that such services rendered by said attorney were necessary; and,

The court after hearing the evidence having found the entire settlement fair and reasonable and having approved such settlement and the division of the proceeds between the plaintiff and his attorneys:

It is, therefore, ORDERED, ADJUDGED and DECREED by the court that the said plaintiff do have and recover of and from the defendant in a lump sum the sum of ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00), in full satisfaction of all claims for compensation, which are asserted or that could be asserted now or in the future by plaintiff as a result of or in any way in connection with the injury, disease and conditions arising or existing while employed by The Aber Company, and alleged in this suit, and it is further ORDERED, ADJUDGED and DECREED by the court that the said employer and the defendant, their assigns, agents and representatives, be and they are hereby declared to be fully, finally and forever acquitted and discharged of and from all liability for workmen's compensation (including but not limited to medical aid, hospital services, nursing, chiropractic services, rehabilitation, medicines, prosthetic appliances) and from any other claims or causes of action arising or that might arise in the future by reason of said injury, disease and conditions arising or existing while employed by The Aber Company, and all

effects thereof; and it is further decreed that all benefits of every kind and character accruing or to accrue to said plaintiff under the Workmen's Compensation Law of Texas by reason of such injury, disease and conditions arising or existing while employed by The Aber Company, are in all things fully and finally compromised, settled, paid and satisfied.

It is further ORDERED that said sum of $1,500.00 is to be divided, and of said sum seventy per cent (70%) is to be paid to Claude J. Tomplait, and thirty per cent (30%) to plaintiff's attorney.

It further appearing to the court that prior to the signing and entry of this judgment, the full amount of this judgment has been fully and finally paid as provided in this judgment;

It is further ORDERED, ADJUDGED and DECREED that no execution shall issue herein for the amount of this judgment or any part thereof, except as to costs of court, and that except as to costs of court this judgment shall stand in all things fully and finally paid, satisfied, extinguished and released.

It is further ORDERED, ADJUDGED and DECREED by the court that the defendant pay the costs of court herein, for which let execution issue, if required, as often as may be necessary.

It is further ORDERED that as the plaintiff paid a jury fee deposit of $5.00 in this cause and as this cause was settled without the use of a jury such fee shall be refunded the plaintiff, the clerk is hereby ORDERED to refund such deposit to the plaintiff from the jury fund.

SIGNED this the 26th day of May, A. D., 1966.

James N. Neff
JUDGE PRESIDING

APPROVED:

Ward McWhorter
Attorney for Plaintiff

Plaintiff

ORGAIN, BELL & TUCKER

By Steve Spohn
Attorney for Defendant

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NO. A-13,916

CLAUDE J. TOMPLAIT

VS.

QUEEN INSURANCE COMPANY OF AMERICA

JUDGMENT

FILED

26 Day of May 1966

at 9:45 A. M.

ETHEL BURTON

Clerk District Court, Orange County, Texas

By Doy Ham Deputy

INDEXED

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COMPARED

ORGAIN, BELL & TUCKER

ATTORNEYS AT LAW

BEAUMONT, TEXAS

The Tomplait v. Combustion Engineering Case File (1962-1969), Requests for admission to plaintiff with exhibits

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THE STATE OF TEXAS

COUNTY OF ORANGE

I, ETHEL BURTON, Clerk of the District Court in and for said County and State, do hereby certify that the above and foregoing is a true and correct copy of the JUDGMENT rendered by said Court in Cause No. A13,916 entitled CLAUDE J. TOMPLAIT VS. QUEEN INSURANCE COMPANY OF AMERICA as the same appears on file and of record in VOL. S-1 Pg. # 64 Civil Minutes, Orange County, Texas.

GIVEN UNDER MY HAND AND THE SEAL OF SAID COURT, at my office in Orange, Texas, this the 27th day of November A. D. 1967.

ETHEL BURTON, CLERK
District Court, Orange
County, Texas

By Madeline Parker
Deputy

NOTICE OF INJURY FROM OCCUPATIONAL DISEASE

Industrial Accident Board

Austin, Texas

IMPORTANT — (This notice must be made out in duplicate and each question carefully and correctly answered within THIRTY (30) DAYS following infliction of injury, one copy to be mailed or delivered to your Employer or his or its Insurance Carrier, and one copy to the Industrial Accident Board at Austin, Texas.)

This is to notify you Armstrong Contracting & Supply Corporation/Travelers Ins. Co.
(Employer or Insurance Carrier)
(See Note 12 under form 5143)

that I suffered personal injury from occupational disease while in the employ of Armstrong Contr. & Sup. Corp.

(Give name of said occupational disease)

Texas. The nature of said occupational disease is as follows:

Silicosis and incipient tuberculosis including pulmonary fibrosis, respiratory defects and pneumonia-degeneration caused by inhalation of silica dust.

(Describe fully the nature of the disease)

The above disease manifested itself on the 1st day of July 1960

at Firestone plant, Orange County, Texas
(Give exact location — name of place where said manifestation occurred)

Incipient said disease began on the [redacted] and ended

If accident occurred outside of Texas, were you originally hired in Texas? Yes If yes, on what date?
(Yes or no)

On what date were you transferred to the State in which the first distinct manifestation of said disease occurred?

When and where were you last injuriously exposed to the hazards of such disease? While working for Armstrong Contr. & Sup. Corp. and working at Firestone plant in Orange County
(Give exact time and location of place.)

By whom were you employed at the time you were last injuriously exposed to the nature of said disease?
Armstrong Contracting and Supply Corporation, P. O. Box 14009, Houston 21, Texas
(Give correct name and address of said employer.)

Give names and addresses of witnesses in support of your claim Various names and addresses not available at this time

Have you returned to work? No If so, on what date? Not applicable

Age 40 Sex Male Single, married, widowed or divorced? Married

Give names, relationship and post office addresses of nearest relatives. Wife - Gladys
P. O. Box 507, Bridge City, Texas

Give your Social Security No. [redacted]

Jas. D. Stubblefield
Signature of witness

P. O. Box 8, Orange, Texas
Address of witness

Give permanent or mail address in order that you will receive all your mail.

Gladys Templeton
Signature of Claimant

P. O. Box 507
Street and number of R.F.D.

Dated this 24th day of Feb., 1962

Bridge City
City or town

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CIVIL NO. 5402

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING, INC., ET AL

REQUEST FOR ADMISSIONS

WELLER, WHEELUS & GREEN
ATTORNEYS AT LAW
GOODHUE BUILDING
BEAUMONT, TEXAS 77704

The Tomplait v. Combustion Engineering Case File (1962-1969), Requests for admission to plaintiff with exhibits
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