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UNION CARBIDE CORPORATION • METALS DIVISION • P. O. BOX 579 • NIAGARA FALLS, N.Y. 14302 • TEL: 716-278-337

January 24, 1978

Mr. Craig McNey
Vice-President
Norwal, Inc.
7314 Deering Avenue
Canoga Park, CA 91303

Dear Craig:

The additional dust count information that we discussed relative to drywall applications is enclosed together with an authoritative medical review article on asbestos-related diseases.

Also enclosed is a description of the type of information and services that can be made available through the Asbestos Information Association/North America to defense attorneys in asbestos suits. There are relatively nominal charges for this information to help cover the very substantial costs entailed in its collection.

As we discussed, the main thrust in asbestos litigation so far has been in relation to asbestosis cases in insulation workers. The main basis for liability has been that the manufacturer knew the material was hazardous and did not warn the user.

If you have any questions, please let me know. I expect to be in California in the near future and would be glad to talk with your insurance carrier if it is of interest.

Very truly yours,

H. B. Rhodes

Harrison B. Rhodes
Technology Manager

PLAINTIFF'S EXHIBIT
tabbies
UC-1406

~~HBR~~/rmm
Encs. 1. Testimony Regarding 16 CFR Parts 1304 and 1305 H. B. Rhodes, Federal Register, Vol. 42, No. 146, Friday, July 29, 1977.
2. State of the Art, Margaret R. Becklake
3. List of Information and Services - AIA/NA

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PLAINTIFF'S EXHIBIT
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C O N F I D E N T I A L

1. Data Bank

At the time our firm undertook the project with the guidance of the Committee, initial contacts with corporate representatives and outside counsel were made regarding the status of pending cases. It soon became obvious that there was no central source of retrievable data available to all AIA/NA members. Furthermore, there was a pronounced confusion and lack of comprehension by many companies regarding the various suits in which they were named as defendants. The primary reason for this state of affairs were: (i) defense efforts were controlled by insurance carriers who dealt primarily on an ad hoc basis with local counsel and (ii)

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many companies lacked the interal or outside staff to undertake coordination of the rapidly multiplying lawsuits in various jurisdictions.

There were patently adverse effects that flowed from the foregoing conditions: (i) companies experienced great difficulty in coordinating discovery and responses to discovery; (ii) companies experienced difficulty in quantifying potential exposure for financial reporting purposes; and (iii) different stategic and tactical approaches were being followed in the various jurisdictions by the same defendants.

Our firm has compiled data from various repositories of information concerning past and pending court actions. We have concentrated on defining for each case: (i) the phase of industry or chain of distribution involved; (ii) the types of injuries claimed; (iii) the theories of liability and defense that have been advanced; and (iv) examples of discovery and responses on a selective basis. An overriding consideration has been to establish a system that allows quick retrieval of available information.

The data bank is built around the following index keys: (i) jurisdictions in which cases have been brought or are pending; (ii) the particular injuries claimed; (iii) individual and corporate defendants by name; (iv) significant discovery, emphasizing interrogatories and depositions; (v)

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court decisions and orders; and (vi) attorneys of record. To the extent that raw information has been distilled and organized in the data bank, the foregoing index keys allow a maximization of retrieval by non-attorney staff at a rapid rate.

As you know, requests for information from AIA/NA members have been sent with respect to past and pending litigation. As information is received, it is analyzed and integrated into the existing system. This system is expandable to enable flexible integration of new data.

We wish to encourage the members of AIA/NA to comply with our requests for information. The advantages to be gained from completing the data bank on court actions as far as possible include the following: (i) rapid availability of prior case information; (ii) a source to facilitate the determination of consistency of defense positions, or lack thereof; and (iii) a system that provides examples of standardized pleading forms and comparative discovery instruments and papers.

We contemplate that the investment of attorney time, which has been heavy up until about two weeks ago, can be considerably downgraded in connection with future operation of the data bank. The established system allows for clerical integration of data received in the future. The same is true in the case of retrieval.

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The heart of the data bank consists of files established covering the following subjects: (i) individual lawsuits, including significant pleadings and discovery; (ii) files on attorneys representing plaintiffs or defendants; (iii) files on medical experts including curricula vitae, memoranda of interviews, specialties and ratings; (iv) materials relating to the medical portion of the Committee's project; (v) responses to questionnaires transmitted by our firm to AIA/NA members; (vi) form pleadings and discovery; and (vii) source materials of a nature not included in the foregoing.

Members of AIA/NA are invited to direct requests for any information from the data bank to either Miss Carey Gross or myself at the offices of Cadwalader, Wickersham & Taft.

2. State of the Art Defense

Philip Enterline, PhD, has completed a survey of the English language, medical literature on the subject of the relationship between asbestosis/asbestos dust and lung cancer. Facing sheets and abstracts from materials reviewed have been provided to the Committee. Copies of the complete medical studies and reports reviewed by Dr. Enterline are available from our offices. We anticipate providing to

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AIA/NA a legal memorandum on the state of the art as a defense in light of materials already received from Dr. Enterline. Subject to the qualification that additional information is expected from Dr. Enterline, the final piece will be completed by the end of April.

Further study is being made into the subject of asbestosis, itself. Also, Dr. Enterline and his staff are reviewing the problem of the relationship between asbestos exposure and cancers other than carcinoma of the lung.

3. Expert Witnesses

Our firm has interviewed a number of physicians recommended by Hans Weill, M.D., as potential experts. The names of these persons along with curricula vitae have been forwarded to AIA/NA's office for distribution as possible witnesses in pending cases. We would be pleased to discuss the needs of individual companies in acquiring expert testimony on either specific problems relating to legal actions or the state of the medical art defense.

4. Practical Aids to Defense Counsel

As presently established, our files are available to provide information on past and pending cases. The data bank system is set up and awaits responses from individual

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