

Asbestos-Poisoning Claims Are Settled, Possibly Setting Precedent for Industry

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NEWARK, N.J.—An out-of-court settlement announced by a federal judge here could become a pattern for thousands of similar cases involving claims against asbestos companies and their insurers.

Clarkson S. Fisher, a federal judge in New Jersey, said Friday a settlement was reached in the six-year-old case, which had consolidated nine suits containing 680 separate claims of \$2 million each. Judge Fisher didn't disclose any amount in his official four-page settlement document. However, the Associated Press said court records show that a \$9.4 million fund has been set up to compensate 680 workers who had filed suits charging they were poisoned by asbestos while working at a Raybestos-Manhattan Inc. plant in Passaic, N.J. A court clerk didn't dispute the figure.

Defendants in the case, all makers of asbestos products, were Johns-Manville Corp., Asbestos Corp. of America and three Canadian concerns, Bell's Asbestos Co., Asbestos Corp. and Cassier Asbestos Ltd. Metropolitan Life Insurance Co. also was a defendant.

Raybestos-Manhattan wasn't a defendant. The Raybestos plant where the workers were employed used material provided by the defendants to make such products as brake shoes for automobiles. The company said Friday that its accountants, Alexander Grant & Co., New York, advised it that they intend to include a qualification in its next annual report covering financial statements for 1978 to 1980.

Judge Fisher said two senior Bergen County Superior Court judges—James I. Toscano and Roger W. Breslin Sr.—were appointed to process the claims and decide on how much each plaintiff should receive.

Reviewing Cases

They are expected to complete their review of cases by May 1. The funds will be distributed by the end of the year, Judge Fisher said. The reported settlement averages about \$13,800 for each plaintiff, although how the money will be divided isn't known.

Irving Selikoff, a professor at Mount Sinai School of Medicine in New York, who in the early 1960s was among the first to make known the dangers of asbestos, said that not all of those exposed to asbestos are harmed or contract the same disease.

In studies of various groups exposed to asbestos he said, "one out of four in some cases, and one out of five in others," would eventually die from lung cancer. The disease most commonly referred to in connection with asbestos is asbestosis, a scarring of the lungs akin to emphysema. But Dr. Selikoff said that one out of 15 dies of mesothelioma, a type of lung cancer that is caused only by asbestos.

Judge Fisher hailed the settlement as "a first . . . to speed the processing of massive asbestos-related suits" without multiple trials. "It would have taken 10 years to resolve these suits," if they had gone to trial, he said.

Lawyers representing the plaintiffs and

the defendants decided to work for an out-of-court settlement a few days before formal trial began last Jan. 5, the judge said.

It couldn't be ascertained how much each defendant contributed to the fund. Lawyers for both sides said they were sworn to secrecy. Johns-Manville and Metropolitan Life declined to comment. The other defendants couldn't be reached.

Cautious About Claims

Meanwhile, Raybestos's accountants are being cautious about future claims against their client. They are concerned about which theory will prevail in assessing damages: "exposure" or "manifestation." Advocates of "exposure" believe that liability and expenses should be shared by insurers on a pro rata basis over the period of the plaintiff's exposure to asbestos.

Advocates of "manifestation" assert that the insurance carriers on the date of the plaintiffs' manifestation of an asbestos-related disease should be responsible.

Two court decisions—including one by a federal appeals court—have used the exposure theory.

If the exposure concept is applied in the case of Raybestos, the company may be liable for claims it hadn't provided for. The concern arises because Raybestos can't currently document the carrier, nature and extent of its insurance coverage before September 1951 and is "uncertain regarding the adequacy of its insurance coverage" for 1951 to 1962. Before the court decisions, Raybestos said it believed it had adequate coverage, based on the manifestation concept.

Raybestos said that as of Jan. 31 asbestos-related complaints against it had more than doubled to 5,375 from 2,240 at the end of 1979. There was also a "significant increase" in the level of settlements and related expenses during last year, Raybestos said. The company added that additional asbestos-related suits seeking damages in undetermined amounts may yet be filed. Thus, Raybestos said it isn't possible to determine its potential liability and the impact on its financial condition.

As reported, Raybestos-Manhattan will post a loss for 1980, which will include asbestos-related claims going back to 1951.

Martin Marietta Agrees To Buy Assets of Firm

By a WALL STREET JOURNAL Staff Reporter

BETHESDA, Md. — Martin Marietta Corp. said it agreed to purchase for more than \$20 million the assets of Dalton Products Co., Dalton, Ga. Dalton's consist primarily of five operating crushing plants and quarries with an annual capacity of more than four tons.

Martin Marietta has interests in num, aerospace products, cemer gregates.