

The first "asbestosis" case was filed in the Eastern District of Texas at Beaumont in 1968.^{12/} That case and the second case were settled for relatively small amounts. The third case filed was the Borel case. Borel was tried to a verdict, and an appeal was taken to the 5th Circuit Court of Appeals. The 5th Circuit's opinion was handed down in 1973. This opinion opened the floodgates, and it is estimated that more than 10,000 similar cases have been filed in the past seven years, all of course patterned after Borel.^{13/}

In the Borel case, the court held that the manufacturer of the product is held to be an expert, and must keep abreast of scientific knowledge, discoveries and advances. If the scientific knowledge is such that the manufacturer could reasonably foresee an unreasonable danger in the anticipated use of the product, the manufacturer is under a duty to adequately warn of such danger. In the absence of a warning, or if the warning is inadequate in the light of the scientific information, liability for injury incurred in the use of the product exists.

Up until 1964, there were no warnings on insulation containing asbestos. Beginning in 1964, some of the manufacturers began placing warning labels on the packages of insulation,

^{12/} Samuel P. Potter v. Fibreboard Paper Products, et al, C.A. 6329, USDC, Eastern District of Texas, Beaumont Division.

^{13/} Borel v. Fibreboard Paper Products Corporation, et al, 493 Fed. 2d, 1076 (CCA, 5th, 1973).