

November 16, 1976

TO: ASBESTOS STUDY COMMITTEE

SUBJECT: Correspondence relating to asbestos

Over the past several weeks I have received copies of correspondence relating to the asbestos problem.

In late October 1976 Mr. Bob Mereness of the Asbestos Information Association contacted me concerning a letter he sent to the EPA. In particular he was concerned with a request that EPA issued for proposals for possible economic impact studies of certain toxic substances. In the request for proposals EPA sent along an enclosure for illustrative purposes. I am enclosing copies of Mr. Mereness' letter to EPA, the letter of the EPA of 2 August 1976, along with Enclosure IV. In Enclosure IV, the EPA used asbestos brake and clutch linings as an example of the type of proposal that the Contractor might be dealing with. In this example, EPA described an economic impact study where asbestos containing friction materials could not be used in motor vehicles in the U.S. As you will note, Mr. Mereness was upset by the use of these illustrations. He felt also that the Institute and its members would be upset by the example used for asbestos containing brake linings and clutch facings. Also, he suggested that our association may wish to comment directly to EPA on the use of this illustration. I will discuss this with the acting Chairman of the Committee and would be pleased to receive other comments.

Another association (ASIA) sent along a copy of a letter that they had received. This letter was sent out by a law firm in Philadelphia soliciting litigation where suits might be pressed against drug companies and other third parties where workman's compensation might be involved. In particular, I call your attention to the last paragraph of this letter where they were soliciting cases involving exposure to asbestos. This letter emphasizes third party liability where originally workmans compensation would have been involved. Where injury from asbestos might be alleged by those working in brake service shops, the primary liability may be with workman's compensation. However, it would appear that this law firm is seeking third party actions, and these could possibly be against those who supply brake linings and clutch facings.

It has been suggested that the third party liability problem might be alleviated in the future if the Institute were to publish in its catalogs recommended procedures on handling brake linings and clutch facings. This is an item that the Asbestos Study Committee might consider for the Institute's catalogs. This too is an item I will discuss with the acting Chairman of this Committee.

E. W. Drislane
Executive Director

CC: Officers & Board of Directors

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July, 1976

To my Colleagues in Law:

I have two questions for your consideration.

First, why does a lawyer usually sue the doctor and very seldom the drug company where there is a drug related injury?

Second, why does a lawyer usually collect only workmen's compensation where there may be a valid third party claim for personal injuries against a manufacturer or designer of a product?

It has been our experience that many suits against physicians should in reality be actions against drug companies and that many workmen's compensation cases should proceed into third party claims against the manufacturer, designer or distributor of a product.

If you find a result which is not reasonably related to an initial injury or an initial condition, ask yourself if a drug reaction may not have taken place.

In a workmen's compensation case, ask yourself if an action does not lie against a third party for a design defect or failure to produce a safe product.

Naturally, this does not mean that every drug reaction or that every injury resulting from a product is compensable. It does mean that these matters should be investigated thoroughly.

This office will accept the forwarding of work in drug litigation and in product manufacture and design litigation. In addition, this office would be willing to accept cases involving injury or death from exposure to asbestos particularly where such exposure has been to an employee at the Philadelphia Naval Shipyard and other places of employment. This office represents approximately 70 litigants in asbestos actions resulting in injury or death.

Sincerely,

SHEIN & BROOKMAN, P.A.

By Joseph D. Shein

JDS/as

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