

FILE NAME: Todd Shipyards (TODD)

DATE: 1999 TODD005

DOC#: TODD005

DOCUMENT DESCRIPTION: Legal Declaratio of Barry Castleman

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

5
6
7
8
9

10
11
12
13
14
15
16

17
18
19

20
21
22
23
24
25
26

27

28

1 in time by the medical community as well as private and public corporations about the
2 hazards of asbestos exposure. I have testified as an expert in the California superior
3 courts on approximately 30 occasions and have given expert witness testimony on this
4 subject in the Los Angeles Superior Court on approximately 8 occasions.

5
6 6. Asbestos is a generic term for a several types of fibrous minerals
7 having properties useful in manufacturing. One of the principal uses of asbestos fibers in
8 this country (from the turn of the century to the mid-1970's) was as a binder or filling mate-
9 rial in the manufacture of thermal pipe insulation used to cover high-temperature steam
10 lines. It is my understanding from his counsel that plaintiff, Joseph Daniel Chiasson, had
11 his sole exposure to asbestos fibers from dust generated by the removal of thermal pipe
12 insulation from the *U.S.S. Taluga* during the November 1965 to March 1966 time period
13 while it was overhauled the Todd Shipyards drydocks in San Pedro, California.

14
15 7. Asbestos exposure causes three principal diseases with differing
16 latency periods (the time from initial exposure to onset of the disease) and differing expo-
17 sure levels thought to be necessary to cause the disease (dosages). Asbestosis is a non-
18 cancerous scarring of the lung tissue caused by relatively large (occupational) exposures
19 to asbestos dust and with an average latency period of 20 years from first exposure to the
20 development of the disease under typical exposure levels of the 1950's and 1960's.
21 Asbestos exposure also causes brochiogenic carcinoma (lung cancer.) Finally, asbestos
22 exposure causes mesothelioma, a cancer of the lining of the lung. Unlike asbestosis,
23 mesothelioma occurs in individuals exposed to far less asbestos fibers than that known to
24 cause asbestosis. The latency period for mesothelioma is 30-40 years on average.

25 ///

26 ///

27 ///

28 ///

1 8. The fact that asbestos exposure caused the non-cancerous disease
2 asbestosis began to receive recognition by 1930 and by the mid- to late-1930's the asso-
3 ciation between asbestos exposure and the disease asbestosis was well-recognized in
4 dozens of medical articles and published both here and in the United Kingdom and in
5 other countries around the world.

6
7 9. Recognition of the relationship between asbestos exposure and lung
8 cancer developed shortly thereafter and by the early 1940's there were a number of medi-
9 cal articles in the United States and in Europe which had made the connection. In 1949
10 an editorial in the Journal of the American Medical Association (JAMA) stated that the con-
11 nection between asbestosis and lung cancer was then clear. An epidemiological study
12 published in Great Britain in 1955, and widely circulated in the United States, removed all
13 doubt regarding the link between asbestos exposure and lung cancer.

14
15 10. With regard to the disease suffered by Chiasson, mesothelioma, there
16 were numerous case reports, starting as early as 1933 and continuing right up until 1960,
17 which documented the relationship between asbestos exposure and mesothelioma. How-
18 ever, it was not until 1960 when Wagner, et al., published the first epidemiological study of
19 33 cases that the association between asbestos exposure and mesothelioma was firmly
20 established. By 1965, when Chiasson was first exposed to asbestos, the relationship
21 between asbestos and malignant mesothelioma was accepted in the medical and scientific
22 community according to my review of the medical and scientific literature published at that
23 time.

24
25 11. By 1965 Todd Shipyards was a publicly traded company that owned
26 and operated at least a half of a dozen shipyards throughout the United States and which
27 employed a few hundred to a few thousand workers per shipyard at any given time
28 depending upon the level of shipbuilding activity. To answer the question of what a rea-

sonable shipyard knew or should have known about the hazards of asbestos exposure by 1965, one would look to the literally hundreds of reports and articles available in any medical library (Todd was headquartered in New York City) which would have alerted a reasonable shipyard to the conclusion that those individuals exposed to asbestos fibers are at a greatly increased risk of developing asbestosis, lung cancer and mesothelioma.

Among the relevant articles I may discuss at trial are the following:

1. Minimum Requirements for Safety and Industrial Health in Contract Shipyards (1943).

In 1943 the United States Navy published a manual outlining the minimum requirements for safety standards in contract shipyards such as those operated by Todd Shipyards. The manual recognized asbestos as a dust hazard and recommended the use of air line and dust respirators and further recommended the "segregation of dusty work" when dealing with asbestos-containing materials.

2. Exposure to Asbestos Dust and Diffuse Pleural Mesotheliomas (British Medical Journal, 1962) 1397

In this short report, W. T. E. McCaughey, one of the world's most renowned pathologists of the time recounted his hospital's experience with regard to cases of mesothelioma. As reported, most of his cases demonstrated that the workers had intermittent asbestos exposure in shipyards.

3. Asbestos Exposure and Neoplasia (JAMA, 1964)

This landmark study by Selikoff, et al., of 632 insulation workers showed an eight-fold increase in mortality rates and a high incidence of mesothelioma in those that had died. Since mesothelioma is extremely rare in the population in general and almost unknown in the non-occupationally exposed population, the insulators who were heavily involved in shipbuilding were shown to be greatly at risk for asbestos-related diseases, including mesothelioma.

Based upon the foregoing, plus many other articles not mentioned in this declaration, it is my opinion that Todd Shipyards knew or should have known that bystanders such as Chiasson were at a markedly increased risk of developing an asbes-

1 tos-related disease, including mesothelioma, as a result of their exposure to the asbestos
2 dust generated during the insulation rip out during ship overhauls.

3
4 I declare under penalty of perjury under the laws of the State of California
5 that the foregoing is true and correct.

6 Executed this ____ day of October, 1999, at Baltimore, Maryland.

7
8
9
10 BARRY CASTLEMAN, DECLARANT