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**JUDGE ORDERS FAR-REACHING LIABILITY ON ASBESTOS:**

Insurance companies must pay all valid claims for asbestos plaintiffs from the time of exposure, a San Francisco judge has ruled after presiding over the longest trial in U.S. history, lasting more than two years.

The ruling by Superior Court Judge Ira A. Brown, Jr., represented almost a total victory for asbestos manufacturers and a near-disaster for their insurers. It's estimated that more than 200,000 individual claims may be filed.

Even if a manufacturer was not insured for such claims during some part of the period of exposure, the insurance company must still pay the entire bill from the time of exposure until the claimant's death.

In his 107-page decision, the judge rejected the "manifestation" theory of disease, which would link liability to the point of medical diagnosis of disease. In support of his ruling, Judge Brown cited medical testimony at the trial that some damage to lungs can occur from the moment of inhalation.

The trial has involved nearly 100 law firms, 70 insurance companies and five manufacturers. The Asbestos Victims of America has estimated legal fees will reach \$36.8 million. The prospect of paying billions of dollars of claims forced Manville to declare bankruptcy even though it was solvent at the time.

The next phase of the trial relates to requests for damages for breach of contract and bad faith by both manufacturers and insurers. That, in turn, will determine whether the manufacturers or insurers will pay punitive damages.

Also to be adjudicated are claims from schools and businesses which have been required to remove old asbestos insulation.

**JUSTICE DEPT. ASSAILED ON WORKER HEALTH PROSECUTION:**

The Justice Department should establish an OSHA Section within the Criminal Division and more vigorously prosecute violations of occupational health and safety laws and standards, a private organization based in Chicago has urged.

It should also establish a policy of referring possible OSHA cases, in 30 days, to the U.S. Attorney with jurisdiction, said the National Safe Workplace Institute. Finally, it urged that OSHA employ criminal investigators at its regional offices to expedite possible criminal cases and to safeguard evidence.

"The Department of Justice, under Attorney General Edwin Meese III, is currently delaying action on no less than six criminal workplace safety cases, including a case against the Union Carbide Corp.," said its report.

"The Department of Labor, which refers cases for prosecution to the Department of Justice's Criminal Division, has failed to refer scores of cases in recent years that warrant prosecution because of Justice's unwillingness to go to court on OSHA cases."

The Justice Department has yet to win its first conviction resulting in imprisonment "even though 128,000 men and women have died in American workplaces since the Occupational Safety and Health Act was signed into law in 1971," it said.

Failure to enforce the law may have contributed to a recent upturn in workplace injuries and deaths, said the report. It also criticized OSHA's policy of basing inspections on employer-provided information on accidents.

The National Safe Workplace Institute was founded by Joseph A. Kinney after his brother was killed in an industrial accident. Co-author of the report was James D. Holzhauer, Professor of Law at the University of Chicago, a former law clerk for Chief Justice Warren Burger of the U.S. Supreme Court. He also previously worked for labor attorneys Bredhoff & Kaiser in Washington.

Copies of the report, Safety at Bay, can be obtained from the Institute at 5059 North Sheridan Road, Chicago, IL 60640; (312) 769-1524.

LINDA SCHNEIDER: CAN THIS JUDICIAL ORDER BE USED AS A PRECEDENT IN OTHER ASBESTOS EXPOSURE CASES? LAURA RIPPEY 7/8/87

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