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Patently Criminal Behavior in the Asbestos and Insurance Industries in the USA

By now, probably well over $100 billion has been paid by defendant corporations and their insurers in US asbestos litigation personal injury claims. An insurance report in 2002 gave the figure of $70 billion.

In the course of this litigation which started to take a large financial toll in the 1970s, there arose legal disputes between insurers and companies that had made asbestos products. Probably referring to numerous workers' compensation claims involving Armstrong Cork contract workers filing asbestos disease disability claims starting in 1952, insurer Commercial Union told a California court that "Armstrong intended to cause injury when they purposefully employed men to work with products they knew would result in asbestos-related disease and death." The statement also said "From the early 1940s to the early 1970s, Armstrong continued a course of conduct which was unrelenting in its quest for profit over the health concerns of its employees or third parties."

Insured companies that sold asbestos products shot back that Commercial Union's 1937 Engineering Manual stated that an asbestosis hazard was to be looked for wherever asbestos dust was created; in particular, insulation. Commercial Union tried unsuccessfully to keep that manual sealed in court records rather than publicly disclose it, claiming that disclosure would irreparably harm insured companies facing asbestos claims. One company CU insured, Pittsburgh Corning, CU alleged, would be severely prejudiced in its defense of thousands of claims in which disclosure of the manual would expose them to "inflated compensatory and punitive damages." (p. 73)

Meanwhile, in defending claims in the 1970s and 1980s, Pittsburgh Corning alleged that the hazards of its asbestos insulation were not known until the late 1960s. As the asbestos litigation gathered, insurers met in the 1970s and decided unanimously to fight the claims and use a state of the art defense along these lines.

So here in the insurance litigation we see that corporations selling asbestos products and their insurers each appear to have profited from the asbestos business while workers were kept ignorant of the insidious delayed mortal dangers of breathing asbestos dust. And when the claims came, the insurers and insureds, at least initially, took the same line of defense which would eventually be shattered by the discovery of evidence demonstrating the longstanding knowledge of many insurers and manufacturers.

Reference:

Deposition of Harvey G. Lewis, May 19, 1992, by L Madeksho, Houston. Case 88-C-0615.

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