

News Digest



Legal Issues

ASBESTOS SUITS SWAMP COURTS

Just as the 10-year swarm of asbestos lawsuits appeared to be dwindling, lawyers have begun hunting up potential victims and sweeping them into the courts with lawsuits against employers and former employers.

The thousands of lawsuits filed recently mark what legal and medical experts say is a major shift in the product-liability tactics, according to the *Wall Street Journal*.

The lawyers are even more enthusiastic about finding asbestos victims than research scientists are and use such methods as free medical screenings and direct-mail solicitations to pull new groups of workers (and companies) into the courts, filling the dockets.

Asbestos court awards and settlements average around \$70,000—giving asbestos lawyers a reason to "widen their sphere," Calvert Cray, a litigation analyst for Bear, Stearns & Co., told the *Journal*.

The lawyers claim that they hope their actions will help workers who have been exposed to asbestos to find treatment and compensation from the employers, government agencies and unions that have "ignored" the situation, according to the *Journal*.

Their methods have generated controversy as well as lawsuits.

Critics say the lawyers are doing nothing more than ambulance-chasing, and some medical experts question the accuracy of the tests, according to the *Journal*.

While asbestos claims used to be limited mostly to shipyard workers who worked directly with asbestos, now they are coming from a wider field. Two West Coast lawyers started a screening program last year that sent three rented vans equipped with mobile X-ray units to test tire workers at 72 union locals around the United States. The screenings resulted in nearly 1,000 new asbestos lawsuits with thousands more being prepared, according to a *Journal* report.

Lawyers also have emerged during screenings of sheet-metal workers in Seattle and where unions have organized screening programs for steelworkers, machinists and school janitors.

The dangers of asbestos hazards were realized as early as the 1920s when British researchers blamed the fibrous mineral for lung cancers and other respiratory diseases among textile workers who wove asbestos and inhaled its dust.

Asbestos now is considered the leading cause of workplace-related cancer deaths, William Nicholson, an epidemiologist at Mount Sinai School of Medicine in New York, told the *Journal*.

The AFL-CIO estimates that 2.6 million U.S. workers still are exposed to asbestos despite regulations limiting exposure.

But asbestos epidemiology has been spotty. Medical investigators have concentrated on presumed high-risk workers—those who fabricated asbestos or installed it as insulation in ships and buildings. Most of the 40,000 workers who have filed asbestos claims so far have belonged to those groups.

The procedure used to be that an exposed worker would visit his doctor, and if his physician was trained to spot asbestos-related diseases, the worker might end up going to his lawyer, Edward J. Carlough, head of the Sheet Metal Workers International Association, told the *Journal*. The group has hired a South Carolina law firm to direct asbestos screenings for 33,000 sheet-metal workers.

The new legal tactics speed up that process. Merchant seamen, for example, now are being tested by the Maritime Asbestos Legal Clinic, run by Detroit-based maritime lawyer Leonard Jaques. Jaques believes the sailors face special risks because they spend weeks at a time isolated on ships filled with asbestos insulation.

Jaques has filed asbestos claims in federal district court in Cleveland for more than 1,500 seamen since September—three times the number of asbestos cases filed in that court in the past three years. He plans to test 20,000 more seamen for asbestos damage, the *Journal* reported.

In 1985, Gordon Stemple, a Los Angeles-based plaintiffs' lawyer, was looking into allegations of chemical contamination of groundwater around a former Firestone Tire & Rubber Co. plant in Salinas, Calif., when he stumbled onto the asbestos problem for tire workers, he told the *Journal*.

Tire making had not previously been linked to asbestos, but X-rays of former tire workers who lived near the plant showed 54 of 84 workers had asbestos-like lung damage, Stemple said.

Some industrial talc, a floury material used to make tires, contains tremolite and anthophyllite, two fibrous minerals that can cause lung damage similar to asbestos.

Stemple sent vans offering free chest X-rays to tire-worker union halls in 26 states. Should a worker's X-ray indicate lung damage, the lawyer urges him to sue. If workers use another lawyer, Stemple charges them \$250 for the test. Most choose Stemple, the *Journal* reported.

Tire makers and producers of industrial talc dispute claims that the compound causes asbestos damage or that the tire workers were even exposed to talc containing asbestos. But B.F. Goodrich says it does use asbestos to make adhesives at its Akron, Ohio, tire plant. Goodrich and Firestone told the *Journal* that they have not found unusual numbers of lung disease cases at their plants.

Still, about 30 law firms have joined Stemple and his partner, Richard F. Gerry, to take tire workers' cases. The potential for 30,000 tire workers' cases exists, Gerry, a former president of the Association of Trial Lawyers of America, told the *Journal*.

Companies drawn into asbestos litigation for the first time include: Pfizer Inc., FMC Corp., Union Carbide Corp., NL Industries and Cyprus Minerals Corp., all identified by workers as suppliers of talc or asbestos.

Jaques has filed lawsuits for his merchant seamen clients against American Steamship Co., Lykes Brothers Steamship Co., U.S. Lines and other ship-owners, also new to such litigation.

Companies sued by the tire workers deny wrongdoing or say they never made or sold talc containing asbestos to tire companies. Shipping companies also deny liability, according to the *Journal*.

The U.S. Coast Guard, which regulates merchant shipping, recently asked legal-ethics boards in the District of Columbia, Michigan and Pennsylvania to investigate the lawyers' links to direct-mail solicitations of seamen.

Some of the letters contain questionable claims or do not mention Jaques' involvement at all. In one letter, for example, the 1980 death of actor Steve McQueen is attributed to asbestos. McQueen was a merchant seaman before he changed to an acting career.

McQueen's relatives blamed asbestos for the actor's death. Doctors, however, said cigarette smoking and chemical exposure also may have contributed to his illness, according to the *Journal*.

Although Jaques claims his motives are to benefit those exposed to workers and his tactics meant to counter efforts by his opponents, several attorneys told the *Journal* that the lawyer may be going overboard.

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