



ASBESTOS SEMINAR

D. Markusson's Comments:

Policy - General

1. Cover Up - The facts behind the alleged cover-up and the documents referenced. These areas where punitive damages are involved.

- a. Raybestos Manhattan Correspondence

Between RM and J-M wherein General Counsels agreed not to publish articles in asbestos magazines--no question that this took place and was said.

In 1931, RM and J-M initiated a research study, the first of its kind in the United States. Between 1931 and 1935, the preliminary data indicated problems. In this correspondence, there is a paragraph wherein Dr. Lanza (in charge of the research) stated the North American experience might be different from the British, so await publication until the preliminary findings could be confirmed.

- b. Control of Medical Literature--J-M since it sponsored the above research, has been accused of editing the results.

Dr. Lanza's article had one (1) change. The change indicated a more serious situation existing, than the original text. This has not been brought up in any court case. This has become largely a dead issue. Nothing was changed between time of draft and publication.

- c. Control and Cover Up of Medical Research -

Do people paying for the Research have the right to pre-publication review of data.

1. Saranac Lake Animal Studies.
 2. Medical Records of Canadian Miners.

Starting in 1937, Symposia on Saranac Lake research was reviewed. Invited were the Chief Medical Officer of Public Health, etc. Researchers outlined what was done and what was proposed for future studies. The results were disseminated to all.

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- d. Dr. Ken Smith - Corporate Medical Director, 1946-1956. Supposedly stated that some employees in Canada should not be told about their diseases. This has been used in attempt to show misconduct.

No jury has ever bought this.

e. Workers Compensation Cases

In the 1950's some insulation workers brought suits for asbestosis. These were isolated cases. Not brought against J-M, but against Armstrong. (i.e. look how long problems have been known, etc.) These suits heard about are no different than a 1979 comp case. In the 1930's there was no compensation, employees had to file suite and companies then settled.

f. Withholding Information from Employees

This could be their physical condition, safe work practices, physicals, use of dust control equipment. Anything and everything.

J-M has long had policies directing instruction and disclosure to employees.

- * We must make sure employees are informed, including over exposures, work practices adhered to, and that they do what they are told. Above all, to the extent possible, document.

- g. Wilbur Ruff - Comments that employees were not told of physical condition are directly rebutted by other testimony. Required employees are calling to deny comments.

Summary

Total Cases 3,203

Suits now being filed at the rate of 100 cases/month.

Cases all break down to a contention of a failure to warn, i.e. "when should we have known that asbestos thermal insulation was hazardous." J-M contends such hazard was unknown until 1964 when we commenced warnings.

Nineteen (19) cases have gone to trial. Eight (8) lost, eleven (11) won. (Won last 11 out of 14.)

Punitive damages has never been paid. Some courts have not allowed punitive damages to even be considered. Won 11 out of 19. Won 11 out of last 14.)

Your risk of suit--several cases now who are suing personally anyone involved in accidental health.

1. J-M has insurance to cover your costs.
2. BOFD has said we will cover damages, cost of defense, unless conduct gross or willful.

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