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Promoting Fairness and Equity in Wisconsin's Civil Justice System

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To: Members, Wisconsin Senate
From: Bill G. Smith, on behalf of the Wisconsin Civil Justice Council
Date: March 4, 2014

Re: Media Reaction to Asbestos Lawsuit Abuse by Trial Attorneys

It's clear that public sentiment is turning against asbestos plaintiff attorneys when *The New York Times*, *National Public Radio*, and *The Huffington Post* run stories and editorials criticizing them for abusing the legal system.

Numerous articles and editorials have been published in response to a recent federal bankruptcy [order](#) dealing with an asbestos case. In the order, Judge George Hodges found a "startling pattern of misrepresentation" and extensive abuse by plaintiff lawyers, withholding exposure evidence in asbestos lawsuits which has resulted in "unfairly inflating" recoveries.

In addition, Judge Hodges said evidence produced during the court proceedings demonstrated that the "tort system was infected by the manipulation of exposure evidence by plaintiffs and their lawyers."

While it's not surprising that there has been so much buzz surrounding Judge Hodges' decision, what is surprising is the response by media outlets that do not traditionally lean pro-business.

These media outlets recognize that by fraudulently raiding trust funds set up to compensate legitimate victims, unscrupulous plaintiff attorneys are cheating and harming future claimants, including veterans. This is why the AMVETS Department of Wisconsin have taken a [position in support](#) of AB 19/SB 13.

Pending legislation ([AB 19/SB 13](#)) in the Wisconsin Senate would help protect businesses as well as future victims (including veterans) from this lawsuit abuse.

Below are excerpts from the various stories and editorials reacting to Judge Hodges' order.

***The New York Times* ("[The Asbestos Scam, Part 2](#)," Jan. 28, 2014):**

As to why anyone should care whether innocent companies have to pay millions to asbestos victims and their lawyers, I would offer three reasons. First, when victims get more than they should under the rules, it means that someone else down the road will wind up with less than he or she should. Second, litigation designed to bring innocent companies to their knees is an impediment to economic growth and job creation. And, finally, there is the rule of law, which the asbestos lawyers suing Garlock clearly flouted.

(Over)

National Public Radio (“[Case Sheds Light on the Murky World of Asbestos Litigation](#),” Feb. 4, 2014):

According to as 2011 [report](#) from the U.S. Government Accountability Office, companies have set aside more than \$30 billion for mesothelioma victims since the 1980s. Asbestos lawsuits have played a role in about 100 companies’ going bankrupt.

Once of those is gasket manufacturer called Garlock. Its parent company, EnPro Industries, is based in Charlotte, N.C. As part of Garlock’s \$1 billion bankruptcy case, a judge has slashed what the manufacturer owes asbestos victims after finding the victim’s lawyers abused the system.

Some called Garlock’s bankruptcy case a watershed moment.

“It’s laid bare the massive fraud that is routinely practiced in mesothelioma litigation,” says Lester Brickman, a Cardozo law school professor who has researched asbestos litigation for more than 20 years and who testified on behalf of Garlock.

The Huffington Post (“[Court Order Disrupts Asbestos World, but What of the ‘Perjury Pawns’?](#)” Feb. 28, 2014):

“If the implications of Garlock hold up, and of course we’ll see on the appeal, it means that trusted attorneys have been leading clients to tell one story for one trust and another story for another trust and maybe a third story for an actual injury – and on and on. Much of this is under oath, so the implication is an almost assembly line approach to perjury.”

This leads back to AB 19/SB 13, which is currently pending in the Wisconsin Senate. This legislation forces plaintiff attorneys filing asbestos lawsuits in Wisconsin courts to disclose all evidence of claims filed with the trust funds. AB 19 has passed the Assembly and the Senate Judiciary and Labor Committee and is waiting to be scheduled for a vote in the Senate.

AB 19/SB 13 is about transparency and ensuring that a plaintiff and his or her attorney do not receive compensation twice (or three or four times) for the same claim, thereby safeguarding resources for future victims.

Conclusion

The Wisconsin Civil Justice Council respectfully requests that you vote for AB 19/SB 13. For more information about AB 19/SB 13, please visit www.wisciviljusticecouncil.org.