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PERSONAL FINANCE 1/10/2014 @ 6:15PM | 4,778 views

# Judge Slashes Asbestos Liability In Garlock Bankruptcy To $125 Million

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A bankruptcy judge slashed by 90% the amount gasket manufacturer Garlock Sealing Technologies owes asbestos plaintiffs, citing the widespread practice of lawyers to inflate claims against the company by withholding evidence their clients were exposed to other sources of asbestos.

In a 65-page order released late today, U.S. Bankruptcy Judge George Hodges set Garlock's liability at $125 million, a fraction of the $1.4 billion plaintiff lawyers said the company owes present and future victims of mesothelioma, a deadly cancer caused by asbestos.

Those lawyers argued Garlock would owe that much based on a string of settlements and jury verdicts at escalating amounts, as other manufacturers of asbestos-containing products slipped into bankruptcy. But Judge Hodges said those numbers were inaccurate and relied upon litigation results in the 1990s, when plaintiffs won only 8% of their cases against Garlock.

The higher numbers, the judge said, "are infected with the impropriety of some law firms and inflated by the cost of defense." The judge cited the practice of plaintiff lawyers to hide evidence their clients were exposed to products made by other companies, both by coaching their clients to deny exposure and by failing to disclose claims they made in other cases.

While the judge declined to comment on the legality of those tactics, his findings appear to support the fraud claims Garlock parent EnPro Industries made against several law firms yesterday. In those lawsuits, filed under seal to comply with the judge's blanket confidentiality order covering plaintiff medical records, EnPro accuses the lawyers of "double-dipping" by suing Garlock and then making conflicting claims with trusts set up to administer claims against bankrupt companies.

In a statement regarding the fraud lawsuit against it, Dallas law firm Waters & Kraus said Garlock helped "cause the deaths of thousands of Navy veterans and others." Judge Hodges disagreed, saying Garlock's gaskets contained relatively harmless chrysotile asbestos contained in polymer and were unlikely to provide enough fibers to cause mesothelioma.

One expert, Dr. David Weill of Stanford University, concluded that low dose exposure to chrysotile from gaskets and packing would not cause mesothelioma even over a lifetime of working with those products. The plaintiffs' expert, Dr. William Longo, presented results of a "work simulation" study that involved grinding and abrading the gaskets with various methods to create dust, which he failed to analyze for asbestos content. The judge dismissed Longo's evidence as "pseudo-science at best."

More persuasive, the judge said, was evidence of attorney maneuvers to inflate the damages awards against Garlock. He allowed the company to conduct discovery on 15 settled cases, and discovered plaintiff lawyers had failed to disclose evidence in all 15. Garlock had negotiated settlements in 99% of some 20,000 asbestos lawsuits, the judge noted, but then as remaining defendants went bankrupt plaintiff lawyers escalated their demands at the same time as evidence of other exposures "disappeared." Lawyers control the bankruptcy trusts and refuse to allow those trusts to share claims information to cut down on double-dipping.

> "The last ten years of its participation in the tort system was infected by the manipulation of exposure evidence by plaintiffs and their lawyers. That tactic, though not uniform, had a profound impact on a number of Garlock's trials and many of its settlements such that the amounts recovered were inflated.

Among the examples the judge cited was a former Navy machinist who won a $9 million verdict from a California jury after saying he was exposed to asbestos while working aboard a nuclear submarine. He denied any exposure to amphibole insulation, and claimed 100% of his work was on gaskets. After the verdict, he filed 14 trust claims, including several against amphibole insulation manufacturers. The same lawyers who denied his exposure to deadlier forms of asbestos had seven months earlier filed with a trust claiming that very exposure.

A Texas plaintiff won $1.35 million against Garlock by claiming it was his only asbestos exposure, specifically denying any knowledge of the name Babcock & Wilcox — one day after he'd filed a claim against that company's trust. A New York plaintiff settled with Garlock for $250,000 during trial, then filed claims with 23 trusts within 24 hours after settling. And in California, a former Navy electronics technician collected $450,000 from Garlock after denying he had ever seen anyone removing pipe insulation. Then he filed seven trust claims based on declaration he had personally removed insulation, naming the products by name.

"While it is not suppression of evidence for a plaintiff to be unable to identify exposures, it is suppression of evidence for a plaintiff to be unable to identify exposure in the tort case, but then later (and in some cases previously) to be able to identify it in Trust claims," the judge wrote.

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