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REVIEW & OUTLOOK

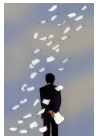
The Double-Dipping Legal Scam

Bogus asbestos claims break into the open in federal court.

Dec. 25, 2014 2:31 p.m. ET

House Speaker John Boehner says asbestos legal reform is a priority in the New Year, and it can't come soon enough. Based on the details emerging from federal bankruptcy court, asbestos litigation fraud has reached new heights.

Garlock Sealing Technologies is a maker of gaskets that since its bankruptcy in 2010 has become a symbol of the corrupt practices of the plaintiffs bar. Lawyers demanded \$1.3 billion in payouts from Garlock for mesothelioma patients until federal Judge George Hodges reviewed evidence showing that many of the claims were a sham. The judge in January slashed the company's liability to \$125 million and slammed the trial bar for "misrepresenting" the facts.



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Then in October he moved to unseal that evidence, and now we're getting a glimpse of what has become a widespread tort-bar con. Court documents show the ugly specifics of "double-dipping"—in which lawyers sue a company and claim its products caused their clients' disease, even as they file claims with asbestos trusts blaming other products for the harm. This lets them get double or multiple payouts for a single illness, with a huge cut for the lawyers each time.

Garlock unveiled how this worked in at least 15 different cases that it had previously settled or lost after Judge Hodges allowed for belated discovery. In a case called Torres, the plaintiff claimed the only asbestos he handled was in Garlock gaskets, even as he told multiple trusts that he regularly handled raw asbestos.

In a case called White, the plaintiff told Garlock he'd never worked at the Norfolk naval shipyard, that he never went aboard naval ships, and that he'd never had exposure to insulation in the Coast Guard. The plaintiff meanwhile told various asbestos trusts that he had worked at the Norfolk shipyard, that he'd been exposed to asbestos aboard naval ships, and that he'd been exposed to insulation while in the Coast Guard. Each of the 15 cases shows similar contradictions.

The extent of the deception won't surprise anyone who's done business with plaintiffs firms. In the White case, the plaintiff told Garlock that he'd been exposed to only two asbestos products. He told others (including trusts or courts) he'd been exposed to 22 additional products.

Of the 15 cases in question, the plaintiffs disclosed to Garlock a cumulative total of 32 asbestos products to which they'd had exposure. In other forums, those same 15 plaintiffs claimed to have been exposed to 284 different products—many containing the most dangerous forms of asbestos.

Often these trust claims were filed with sworn statements in which plaintiffs attested to having “breathed” specific products—though they hid this from Garlock. The company paid nearly \$18 million to these 15 plaintiffs based on the misrepresentations.

Garlock noted in court that these 15 cases were handled by the same five national firms: Shein Law Center; Waters, Kraus & Paul; Belluck & Fox; Williams Kherkher; and Simon Greenstone Panatier Bartlett. The gasket maker also pointed out that four of the firms (all but Shein Law Center) employ lawyers who'd once worked for Baron & Budd, a firm famous for a 1997 memo that instructed clients in the art of withholding pertinent information from defense attorneys and courts.

The law firms have been able to get away with this because they've pressured dozens of outside asbestos trusts not to share claims data with each other or with courts. Most judges deny requests for discovery, and Garlock was able to uncover the double-dipping because Judge Hodges was a rare exception. No doubt more extensive discovery would turn up more double-dipping, and Garlock has filed federal racketeering suits against four of the firms toward that end.

Another response is moving through Congress: The Furthering Asbestos Claim Transparency Act would require asbestos trusts to disclose basic details about the claims they receive. This would allow companies and the courts to produce more honest assessments of asbestos liabilities. It would also allow the trusts to exercise some due diligence, preserving more assets to compensate asbestos victims who have legitimate claims.

The FACT Act had no chance in Harry Reid's Senate, but a Republican Congress might be different. Asbestos fraud is a blight on the courts and basic legal fairness, and Congress ought to put a bill to stop it on President Obama's desk.

