Clydebank Asbestos Group

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Asbestos Update

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- "pay compensation to the victims of asbestos"

Royal Sun Alliance:liable?

A High Court Judge, on the 9th May 2003 has rejected Royal Sun Alliance's claim that a clause in their insurance policy excluded asbestosis, this did not include claims for mesothelioma and other asbestos related claims.
This could mean that Royal Sun Alliance - who are Britain's second biggest insurers, could be liable to pay out millions of pounds in compensation to the victims of asbestos related disease.
R.S.A. had no right to exclude any of the asbestos related diseases (including asbestosis) after 1972 as this was illegal under the Employers Liability (Compulsory Insurance) Act. But this was not the case from 1969 until 1972, he said

The new ruling says that from 1969 until 1972 Royal Sun Alliance should legally be allowed to exclude asbestosis. However they are not entitled to exclude other asbestos related diseases such as mesothelioma.

This ruling has special significance for people who worked for Turner and Newall. They were bought over by Federal Mogul five years ago and are now in administration.

One worrying factor is that the wording in R.S.A's policy is believed to have been standard amongst corporate insurers at the time. However Mr Simon Freakley who is a restructuring specialist said "I suspect this will be a defining point for other companies whose employees are pressing for compensation" Mr Freakley also described the decision as a "major step" towards enabling hundreds of former Turner and Newall workers who have developed asbestos related diseases to obtain compensation.

The down side of all this is that Royal Sun Alliance are likely to appeal against the decision on the grounds that Turner and Newall did not make a full disclosure about the extent of its asbestos manufacturing operations.

The Clydebank Asbestos Groups denounces this development and urges Royal Sun Alliance to stop their delaying tactics and pay compensation to

Jury's Out for the Legal Petition: PE 336 Civil Justice

As you know Clydebank Asbestos Group has been campaigning, alongside Clydeside Action on Asbestos, to the Scottish Parliament for a change in the Law to ensure that Asbestos sufferers are given the justice they deserve.

The Petition was asking for a review of procedure and powers of the Court of Session to ensure that delays were minimised and the real issues between parties would be identified, Interim Payments would be made, and obstacles would be removed for hearings by way of a Jury Trial. To initiate any legislation as is deemed necessary to improve civil justice for asbestos victims.

"The Jury is still out on this one"

We attended a meeting of the Deputy Justice Minister, Hugh Henry on the 31st March 2003. At this meeting we were informed that a "Practice Note" had been agreed "Practice Note No 2 of 2003 "Personal Injuries Actions". The most important aspect of the practice note is that the Court would look with considerable sympathy on an application for acceleration of the timetable where life expectancy is not expected to exceed the duration of the timetable.

"asking for a review of procedure and powers of the court of session"

There was a long discussion at this meeting with conflicting interpretations of what would happen. One school of thought believed that most of what we were looking for was contained within this practice note. Another school of thought was disappointed that two years of campaigning had resulted in very few of our aspirations, jury trials, denials and the setting up of commercial courts, items contained within the petition were not being addressed.

However we all agreed to give the new proposals a chance but said they would have to be reviewed and quantified, to decide if they met

Removal of Asbestos Paramount

Local Authority Worker Tommy Gorman has recently been involved in work for the Convention of Scottish Local Authorities (COSLA) in compiling a report on the removal of Asbestos from local authority premises. His remit included the following...

- To consider the ill health, social and economic legacy of asbestos use in Scotland and local governments involvement in tackling problems arising from asbestos use.
- To review arrangements and consider local authorities best practice in asbestos related matters.

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- To make cases for the health care, social and economic burdens of asbestos to be adequately met through external funding from the Scottish Executive and other sources as relevant.

The final document covers a wide range of issues affecting asbestos in schools, contractors (who now have statutory obligations), training, and the financial burden imposed on Local Authorities by asbestos.

THE LOVING CARE OF A WIFE

The care of a loving wife was officially recognised recently by a High Court Judge, who said that for years the courts had undervalued the round the clock care women devote to their dying husbands. Mrs Josephine Murray informed the Court that she and her daughter gave her husband emotional support. She purchased a mobile phone to enable her husband to keep in touch when she left the house. She drove him to hospital. She cooked and cleaned for him, and helped him to and from the toilet. She sponged him down during the night.

Mrs Murray whose husband Joseph was suffering from Mesothelioma was given an overall settlement of £92,000 of which £9,500 was attributed for personal care.

At last the courts are beginning to recognise the care that loved ones give when looking after someone who is dying.

Mickie Most dies of Mesothelioma

The well known record producer Mickie Most (real name Michael Peter Hayes) has died at home, of Mesothelioma at the age of 64.

Mickie who catapulted stars to fame such as The Animals, Jeff Beck, Lulu, Hot Chocolate and Kim Wilde. As well as Herman's Hermits, the Nashville Teens and Donovan, was credited with producing the greatest number of number one hits than any other record producer.

It was widely reported that Mickie died of Cancer but not so many observed that he suffered from the particular strain of Cancer : Mesothelioma whose only known cause is through exposure to asbestos .

Mickie's death coincides with shocking revelations from the health and safety executive about the rising tide of mesothelioma cases. It was revealed that in the first five years of the 1980's 2,317 people died from this terrible disease. This contrasts with 6,475 in the last years of the 1990's representing a 18 0% increase in cases over the period.

Most of these deaths were of workers in heavy industry such as shipbuilding, but this case raises questions about other places of work where people may have been exposed to asbestos. Workers can be vulnerable In an office or in a music studio.

This case shows that lethal asbestos dust can have an effect almost

The Clydebank Asbestos Group committee members are as follows....

Secretary
Margaret Lilly

Chair
Sam Irvine

Vice Chair
Robert Dickie

Treasurer
David Colraine

- Jimmy Cloughley
- Colin MacQueen
- Joan Baird
- Charlie Marshall

Monitoring Officers
- Tom Gorman
- John Hepburn

Administrator
- Janice Strain

Asbestos Advice Counsellor
- Alex Cunningham

"asbestos dust can have an effect almost anywhere"

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High Court Judgement:Phillips v Syndicate 992 and others.Tommy Gorman:Welfare Rights officer, West Dunbartonshire Council

A recent High Court Judgement established that insurance companies must pay full rather than partial damages even when they insure a defendant employer for only part of the total period of that exposure.

On 14th May 2003 the High Court in London gave a judgement in the case of *Phillips v Syndicate 992 and Others.* Mr Phillips worked as a lagger for Thermac from 1955 to 1957 and from 1959 until 1970. Thermac was insured by Lloyds syndicate 992 from November 1957 to November 1968, spanning around nine years of Mr Phillips employment with the company.

"Insurance companies must pay full rather than partial damages"

Thermac went out of business soon after Mr Phillips stopped working for them and there was no trace of any other insurers. A High Court judgement of £205,000 was made against Thermac following Mr Phillips' death from Mesothelioma caused by exposure to asbestos during his time with the company.

We're on the web
www.clydebankasbestos.org.uk

Lloyds Syndicate 992 paid 72 per cent of the value of the £205,000 award based on the proportion of the length of the asbestos exposure for which the syndicate had insured Thermac while Mr Phillips was in their employment.

Fresh proceedings were started against the syndicate for the balance of £56,375, plus interest. This was based on the Third Parties (Rights against Insurers) Act 1930, which entitled Mr Phillips widow to pursue a claim against the Syndicate for whatever indemnity Thermac would have been able to claim if the company was still trading.

"Without the courage of widows like Mrs Phillips and Mrs Fox before her, coupled with the expertise and commitment of their legal advisers, that fight would be very much harder. We must salute their integrity"

The judgement of the court was that Mrs Phillips should be awarded £56,375 compensation, plus interest and costs. The decision also establishes that insurers are liable to pay damages in full rather than a proportion for a case of Mesothelioma to which dependent employers have materially contributed. Even if they insured a defendant employer for only part of the total period of exposure to asbestos.

This case also illustrates that asbestos sufferers and bereaved relatives have to fight every inch of the way for justice. Without the courage of widows like Mrs Phillips and Mrs Fox before her, coupled with the expertise and commitment of their legal advisers, that fight would be VERY much harder,

If you think you are suffering from an asbestos related disease— contact us.

Clydebank Asbestos Group

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