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## Auto Accident Update

Michael Ponterio and I published our first newsletter for clients approximately three months ago. At that time, we told you about our commitment to represent victims of asbestos exposure, and we let you know that we have also been representing a growing number of people seriously injured in accidents, such as automobile accidents, construction accidents, and as a result of medical malpractice. In the field of automobile accident litigation, our office has been successful in obtaining early decisions from judges finding liability for fault on the part of the driver who caused the accident. In these cases, the only issues for the jury to decide are whether the victim suffered a serious injury and the amount of money damages to be paid to the victim.

If you are seriously injured in a car accident caused by the carelessness of another person, our office is ready to represent you in a lawsuit.

There is no reason for you or a family member to call the lawyer whose face appears on the billboard along the roadside. Call an attorney that you know and trust.

## Construction Accidents

We are aggressively pursuing construction accident claims for our clients. For example, we represent one construction worker who fell off a scaffold suffering serious injuries

requiring a knee replacement.

## Medical Malpractice

In medical malpractice, we represent a young female college student who was sterilized due to the carelessness of the doctor. She will never be able to have children of her own.

## Politics and the Law

When we wrote our last newsletter, the Democrats were in the White House, and it appeared that attempts by Republicans in Congress to enact "tort reform" would face significant obstacles. "Tort reform" are political code words used by politicians bent on restricting access to our courts by people injured due to the willingness of product manufacturers to put profits ahead of consumer safety. Legislation proposed by the Republicans in Congress when Newt Gingrich was Speaker of the House would drastically limit your ability to bring court action against asbestos companies that callously and heartlessly caused injury to you and your loved ones. Ironically, the proposed law is known as "The Fairness in Asbestos Compensation Act." The bill is anything but fair, so please don't be fooled.

## Exposure to Beryllium

Since the 1940's, beryllium, a naturally occurring element, has been used increasingly in various industrial applications in the United States of America. Beryllium is a

metal, notably lighter than aluminum, especially useful because of its rigid quality. Beryllium is used in the defense industry, the automotive and aerospace industries, in electronics, and in the manufacture of dental and medical equipment and supplies.

Unfortunately, exposure to the dust, fumes, and mist resulting from the machining, sanding, grinding and cutting of beryllium alloys is capable of causing potentially fatal chronic disease in an unknown percentage of exposed persons. Exposure occurs through the inhalation of beryllium dust at a work site or even at home, from dust-contaminated work clothes. The disease process, which primarily affects the lung tissue by forming cell clusters called granulomas, may not result in chronic health effects for months, or even for years. However, when chronic beryllium disease does occur, it can result in premature death.

Chronic beryllium disease causes inflammation of lung tissue which restricts the exchange of oxygen between the lungs and the blood stream. Symptoms range from chronic cough, wheezing, and shortness of breath to the inability to take in enough oxygen, in severe cases, to maintain life. There is no cure for chronic beryllium disease, although treatment is available in most cases and may alleviate symptoms in some sufferers.

Harmful exposure to beryllium dust may occur at levels so low that the presence of contamination can only be detected by sophisticated

measuring devices. The problem is compounded by the fact that while only a certain percentage of the population may be susceptible, there is no reliable way to determine susceptibility in advance of exposure.

Western New Yorkers have been exposed to beryllium by working in industries that manufacture and distribute metal alloys used in making dental and medical supplies.

Western New Yorkers have also been exposed to beryllium dust, fumes and mist by performing contract work at a manufacturing facility in Elmore, Ohio owned and operated by the world's largest producer of beryllium and beryllium alloys, Brush Wellman Corporation. Our firm is currently handling chronic beryllium disease claims for individuals who have been exposed both in the Buffalo area and in Ohio.

We are aware that some of our clients and their families and friends may also have been exposed to beryllium in other contexts. Please call our office if you believe that you were exposed to beryllium.

## Household Exposure

In our last newsletter, we highlighted the problem of household exposure to asbestos. More recently, in early October, some of you may have read an excellent series of articles appearing in USA Today which detailed the problems of family members exposed to a variety of toxic substances, including mercury, radioactive material, beryllium, lead, asbestos, PCBs, pesticides and arsenic. The USA Today article stressed that these contaminants can be brought into the home on a workers' clothing, hair, tools, papers, and briefcases. The article points out that lead dust is a particular hazard to small children who may be contaminated by parents working in facilities which repair and rebuild batteries, as well

as in the ceramics industry and in lead smelting.

Family and friends may be exposed to invisible or minute quantities of contaminants brought home on a worker's clothes, and USA Today reports that exposure can result from casual handling of clothing or even from cleaning a house containing a hazardous substance tracked in from the job on a worker's shoes.

It is important to keep in mind that your children or grandchildren may be exposed to a lead hazard, even if your home is free of chipping or deteriorating lead based paint. According to the USA Today article, tens of thousands of families with children under six are living with household members occupationally exposed to lead, as a result of such activities as sanding old finishes, fixing batteries, repairing radiators or splicing cables containing lead dust.

If you have any questions or concerns about toxic substances brought home on your clothing, we would be happy to speak with you or direct you to an appropriate agency for more information. If you suspect a continuing contamination hazard, we advise you to investigate immediately and take appropriate steps to decontaminate laundry rooms where contaminated clothes are washed and to take precautions with regard to car seats, rugs, furniture, and other surfaces. It is important, also, to take the appropriate precautions since, for example, vacuuming up a substance such as mercury can disperse the substance in the air and cause an even greater hazard.

## Update on Asbestos Company Bankruptcies

In the early 1980's, the Johns Manville Corporation, a former

manufacturer and producer of asbestos and asbestos containing products, filed a bankruptcy petition for reorganization in order to protect itself from its creditors, mainly persons suffering asbestos-related injuries from exposure to Johns Manville products. When Manville went into bankruptcy, it was acknowledged that it had assets greater than its liabilities. Nonetheless, United States Bankruptcy Law allowed the filing of the petition and ultimately the reorganization of the company and the development of a plan to compensate, at drastically reduced rates, those persons suffering from all varieties of asbestos-related disease who were exposed to Johns Manville products, either occupationally or through household exposure. Today, the Manville Personal Injury Settlement Trust, recognizes and settles claims on a rigid schedule of benefits and pays out 10% of the scheduled value of the claim. In the case of a person suffering from mesothelioma, for example, Manville evaluates the claim at \$200,000 and issues a check in the amount of \$20,000 in exchange for settlement documents acknowledging that the injured party may never receive more than the \$20,000 initial pro rata distribution.

Since Manville went into bankruptcy, a string of other asbestos manufacturers have filed for bankruptcy for more or less the same reasons invoked by Manville. This year alone three corporations which produced asbestos containing materials or utilized them in the construction of equipment filed bankruptcy petitions. The Babcock and Willcox Corporation, which made industrial boilers coated with asbestos insulation, filed for bankruptcy in February; Pittsburgh Corning Corporation, which made a form of pipe covering and block insulation called Unibestos, filed a petition for bankruptcy in April; and

in early October, Owens Corning, one of the manufacturers of asbestos containing pipe covering and block in the United States filed a bankruptcy petition. Other companies which have filed for bankruptcy over the past two decades are the Celotex Corporation, Forty-Eight Insulations, HK Porter, Eagle Picher Industries, Union Rubber and Asbestos Corporation, Raytech Industries, and Stone and Webster.

The filing of a bankruptcy petition has the effect of bringing to a halt the prosecution of your claim against the bankrupt defendant. In other words, we are prohibited by law from continuing your lawsuit against the company, for example, Owens Corning, or otherwise attempting to collect damages from that company until such time as a plan is put into place to compensate asbestos personal injury victims.

Unfortunately, the bankruptcies of asbestos manufacturers will

inevitably diminish the recoveries which our clients receive in settling their asbestos disease cases. Each of these bankrupt companies have or will develop a plan for payment to asbestos victims. The amount of money each company ultimately pays depends on such factors as the severity of asbestos disease you have and the amount of monies each company has left to compensate each asbestos victim. We are mindful of this problem, and we are tracking the various bankruptcies involved and filing proofs of claim as allowed by the bankruptcy courts. As for Owens Corning settlements already agreed to, settlement payments will be deferred until the bankruptcy court approves the reorganization plan. Therefore, although you may have received and signed a release for this company, payment will not be made as promised. It is not clear at this time what value will finally be paid to the open claims against Owens Corning Fiberglass

Corporation. We appreciate your patience with this process.

Despite the bankruptcies, your claim is important and remains valuable. We continue to pursue all potentially responsible parties on your behalf.

### **In Memoriam**

We would like to express our condolences to the families of our recently deceased clients:

- Mitchell Sandy ..... July 6
- Dennis M. Kisiel ..... July 19
- Daniel J. Krull ..... September 3
- Richard R. Piechowicz .... Sept. 14
- Joseph Wallo ..... April 21
- Victor Mancinelli ..... April 22
- Anthony Whytas ..... April 26
- James McDonnell ..... April 27
- Roger Ballard ..... April 30
- Norbert Keller ..... May 5
- Caroline Izzo ..... May 10
- John Ross ..... June 4
- Heinrich Jurzysta ..... June 12
- Michael Augello ..... June 26