

NEWS & VIEWS



Lipsitz & Ponterio LLC
Mesothelioma & Catastrophic Injury Attorneys

IN THE FIGHT WITH YOU.

Attorney Advertisement

<https://www.lipsitzponterio.com>

Jury Awards \$8 Million Verdict in Mesothelioma Case

After a trial lasting several days, a former employee of Eastman Kodak, Wayne Meissner, was awarded a verdict in the amount of \$8 million. State Supreme Court Justice John J. Ark presided over the trial. Wayne Meissner and his wife, Jill, were represented by Attorneys John P. Comerford and Mathew J. Morton. Mr. Meissner was diagnosed with mesothelioma in July 2018.

Mesothelioma is a rare and incurable form of cancer caused by exposure to asbestos. Wayne Meissner is a lifetime non-smoker, although smoking has

no connection to the development of mesothelioma. He was occupationally exposed to asbestos over a period of several years beginning in the late 1960s. He experienced a particularly intense period of exposure while working at Kodak Park as a civil engineer. In 1970 he monitored and inspected a job involving the spray application of asbestos performed by Ridge Construction, a subsidiary of Eastman Kodak. Ridge Construction failed to take steps to warn Mr. Meissner of the risks of exposure to asbestos and also failed to protect him from exposure to the deadly mineral fiber.



Cont'd. on Pg. 2

Inside this issue:

- Jury Awards \$8 Million Verdict in Mesothelioma Case Page 1
- NYS Court of Appeals Holds Coke Oven Manufacturers Have A Duty to Warn..... Page 1
- Child Victims' Act Signed into Law in New York State..... Page 3
- Lipsitz & Ponterio Opens An Office in Rochester, New York..... Page 3
- Michael A. Ponterio Recognized as One of NY's Top Ten Asbestos/ Mesothelioma Attorneys Page 3
- Lipsitz & Ponterio Welcomes Associate Attorneys Sean M. Esford and Katherine L. Dibble Page 3
- Lipsitz & Ponterio Sponsors Roswell Park's First Day of Giving..... Page 4

IN THE FIGHT WITH YOU.

NYS Court of Appeals Holds Coke Oven Manufacturers Have A Duty to Warn

On June 11, 2019, New York State's highest court affirmed that manufacturers of coke ovens have a duty to warn about the latent dangers of their products. Coke ovens are vast, industrial ovens that are used to transform coal into coke, a solid fuel used in the manufacture of steel. Until the imposition of engineering controls and the mandatory use of respiratory protection in the late 1970's, the ovens, when used as intended, exposed the workers to dangerous cancer-causing emissions.

Lipsitz & Ponterio, LLC represents the Estate of Donald Terwilliger. Mr. Terwilliger spent most of his career as a coke oven worker at Bethlehem Steel in Lackawanna, New York. Beginning in 1966, Mr. Terwilliger was exposed to carcinogenic emissions released by the coke ovens. Despite knowing that its ovens posed a deadly hazard, the ovens' manufacturer never warned workers, like Mr. Terwilliger, about the dangers the ovens posed. When Mr. Terwilliger's Estate sued the coke oven's manufacturer, the defendant

Cont'd. on Pg. 2



Follow/Like Us on FaceBook! visit: LipsitzPonterio

NYS Court of Appeals Holds Coke Oven Manufacturers Have A Duty to Warn (Cont'd. from Pg. 1)



argued that, even if it knew that using its ovens as intended could kill the users, the manufacturer did not have any duty to warn users, because the coke ovens were so large that they should not be considered products. The oven is too big to be a product,

the defendant insisted, and if it is not a product, then the company that made it is entitled to sell it in a dangerous condition.

On June 11, 2019, after a multi-year legal battle, the Court of Appeals rejected this argument and confirmed the longstanding New York rule that a manufacturer has a duty to warn about the latent dangers of the machinery it sells – even if its machines are very large, or are constructed into a larger building. This decision is a victory for the rights of New Yorkers injured by industrial negligence. John N. Lipsitz, Dennis P. Harlow, and Mathew J. Morton handled this appeal.

If you were a coke oven worker and have been diagnosed with mesothelioma or lung cancer, Lipsitz & Ponterio, LLC can help you. We will actively pursue all eligible claims and seek to hold the coke oven manufacturers responsible for their actions. ♦

If you would like to read more, the link to the *Terwilliger* decision is: <https://www.nycourts.gov/ctapps/Decisions/2019/Jun19/36opn19-Decision.pdf>

Jury Awards \$8 Million Verdict in Mesothelioma Case (Cont'd. from Pg. 1)

“Today a jury in Monroe County said ‘No More!’ to the careless behavior of the asbestos industry.”

The \$8 million verdict was allocated 80% to the wrongdoing of Ridge Construction, and 20% was allocated to other responsible parties. The jury also found that the conduct of Ridge Construction was reckless.

Wayne Meissner is 73 years old. He and his wife have been married for forty-eight years, and they have four adult children.

“Today a jury in Monroe County said, ‘No More!’ to the careless behavior of the asbestos industry.

Wayne Meissner, who enlisted in the Navy where he selflessly served his country, valiantly fought for his rights in the courtroom in Rochester, New York, and he won,” said Attorney John P. Comerford after the verdict was delivered.

If you were exposed to asbestos while performing your work duties and have been diagnosed with mesothelioma, call Lipsitz & Ponterio, LLC at (716) 849-0701 for a free consultation. ♦

A courtroom observer wrote after the trial, “You are an OUTSTANDING Attorney! You were very prepared, very knowledgeable about the case subject matter, and passionate. Quite frankly, you were the most talented lawyer in that courtroom by light years!”

**Keep Us Informed! Are you moving, have a new phone number or Email?
Update your information by calling (716) 849-0701.**



Attorneys Sean M. Esford and Katherine L. Dibble Join Lipsitz & Ponterio, LLC!

Lipsitz & Ponterio, LLC is pleased to announce that Sean M. Esford and Katherine L. Dibble have joined the firm as Associate Attorneys! Sean will be assisting in fighting for those afflicted with asbestos-related diseases, and Katherine will be handling workers' compensation matters. We are pleased to welcome Sean and Katherine to our L&P team! ♦



L&P Attorneys and Staff Wear Blue for Mesothelioma Awareness Day

AWARDS & RECOGNITIONS:

Michael A. Ponterio Recognized as Top-10 Asbestos/Mesothelioma NYS Attorney by National Trial Lawyers Association



Be sure to Like and Follow our Facebook Page to stay connected with the latest news and information.

www.facebook.com/LipsitzPonterio



Check out the Lipsitz & Ponterio Channel!!

Lipsitz & Ponterio, LLC Opens Office in Rochester, New York

Effective November 1, 2019, Lipsitz & Ponterio, LLC opened a satellite office, located in the Historic Powers Building at 16 West Main Street, Suite 707, Rochester, New York 14614. Rochester office hours are by appointment only and all communications should be directed to the Principal Office in Buffalo, New York. ♦



The Historic Powers Building

Child Victims' Act Signed Into Law in New York State



On February 19, 2019, New York State Governor Andrew Cuomo signed into law the Child Victims Act, which extends the statute of limitations for a survivor of child sexual abuse in civil and criminal cases in New York. Previously, a survivor of child sexual abuse would have had to file a civil lawsuit by the time they reached the age of 21, or their case would be time barred.

Among other things, this legislation originally:

- Increased the amount of time during which perpetrators of these crimes may be held criminally accountable;
- Allowed victims of these crimes to commence a civil lawsuit at any time before they reach the age of 55;
- Eliminated the need to file a Notice of Claim for sexual offenses committed against a minor; and
- Provided victims whose claims have been time-barred a new opportunity by opening a one-year window for them to commence their action, from August 14, 2019 to August 14, 2020.

In light of the coronavirus outbreak, the New York State's Unified Court System suspended the filing of new lawsuits while the state worked to flatten the curve. As a result, the Governor issued Executive Order 202.29 on May 8, 2020, which extended the filing deadline for Child Victims Act cases from August 14, 2020 to January 14, 2021. The New York State Senate and Assembly subsequently passed legislation on May 26, 2020 extending the ultimate filing deadline until August 14, 2021, granting victims an extra year to file. This Bill was signed into law by Governor Cuomo on August 3, 2020.

Unsurprisingly, when the window for claims opened on August 14, 2019, hundreds of cases were filed under the Child Victims Act, and thousands more have been filed since. The Catholic Dioceses and The Boy Scouts of America are among the defendants listed in these lawsuits. Other cases have also been brought directly against abusive members of the victims' families.

If you were the victim of child sexual abuse, please call us at (716) 849-0701 so that we can help you seek justice. ♦

Check out Attorney John Lipsitz's Appearance on WKBW's AM Buffalo! Visit our website: www.lipsitzponterio.com



Lipsitz & Ponterio, LLC
Principal Office:
 424 Main Street
 Suite 1500
 Buffalo, NY 14202
 Tel: (716) 849-0701
 Fax: (716) 849-0708
 or call: (716) 600-MESO

Rochester Office:
 16 W. Main Street
 Suite 707
 Rochester, NY 14614
 Tel: (585) 286-9787
 or call: (585) 600-MESO

-  **Facebook:**
LipsitzPonterio
-  **Twitter:**
@Lipsitzponterio
-  **Instagram:**
Lipsitzponterio

 Visit us online: www.lipsitzponterio.com

Lipsitz & Ponterio, LLC
ATTORNEYS:

- John N. Lipsitz
- Michael A. Ponterio
- John P. Comerford
- Joseph T. Kremer
- Anne E. Joynt
- Dennis P. Harlow
- Mathew J. Morton
- Zachary J. Woods
- Mary M. Comerford
- Grace M. Gannon
- Ryan D. Ledebur
- Jillian M. Ponterio
- Sean M. Esford
- Katherine L. Dibble

OF COUNSEL:
 Henry D. Gartner

Lipsitz & Ponterio, LLC Supports Roswell Park Comprehensive Cancer Center's First Annual Day of Giving

On September 25, 2019, Roswell Park Comprehensive Cancer Center held its first annual Day of Giving, an online campaign to fund important cancer research.



Pictured above (left to right): Michael A. Ponterio, Roswell Park's Mary Reid, MSPH, PhD, John N. Lipsitz, and John P. Comerford.

Lipsitz and Ponterio, LLC was honored to play a part in Roswell Park's first annual Day of Giving; a 24-hour campaign where staff, patients, family members, friends and the Western New York Community had the opportunity to raise funds, and were able to designate their donations to go towards those areas that mean the most to them.

Thanks to everyone's collective efforts, Roswell's Day of Giving was a huge success, raising over \$100,000 from 789 donors! We are thankful to those who donated to this worthy cause, as it has a direct impact on many of our clients who receive care at Roswell Park Comprehensive Cancer Center. Congratulations to Roswell Park as we recognize their commitment to cancer research and patient care! ♦

News & Views has been prepared by the attorneys at Lipsitz & Ponterio, LLC and is intended for general information purposes only and should not be considered legal advice. You are urged to contact an attorney concerning any specific questions you have relating to your own situation. Prior results do not guarantee a similar outcome.