

NEWS & VIEWS

Talcum Powder and Mesothelioma

MESOTHELIOMA IS A DEADLY cancer caused exclusively by asbestos exposure. Generally, people diagnosed with mesothelioma have identifiable workplace or secondary exposure to asbestos. Secondary exposure is a form of environmental exposure to asbestos which occurs when a person lives in a neighborhood surrounded by industrial facilities that used or processed substantial amounts of raw asbestos fibers. Home exposure to asbestos generally occurs in the home when family members came into close contact with other family members who were covered in asbestos-laden dust from the workplace. For example, home exposure occurs when family members laundered clothing worn to work which was contaminated with

asbestos fibers.

Some people diagnosed with mesothelioma appear to have had little or no contact with asbestos. Some people have been exposed to asbestos through years of using talc-based powders and cosmetics. Talcum powder is widely used in cosmetic products such as baby powder and adult body and cosmetic powders. It is used to keep skin dry and to prevent rashes and chafing. Johnson & Johnson, arguably the most well-known manufacturer of talcum powder, recalled 33,000 bottles of Johnson's Baby Powder in 2019 after the U.S. Food and Drug Administration found asbestos in a sample it tested. In May 2020, the company announced it would stop selling talc-based baby powder in the United States and Canada. The decision came after juries awarded

billions of dollars to people who said talcum powder products gave them ovarian cancer or mesothelioma. Mesothelioma is a latent disease, which means it can take 20 to 50 years after exposure to asbestos-contaminated talcum powder to develop. Currently, there are nearly 40,000 cases pending against Johnson & Johnson which seek recovery for injuries related to asbestos contaminated baby powder.



LIPSITZ, PONTERIO & COMERFORD IS ACCEPTING CPAP LITIGATION CASES

In June of 2021, Philips Respironics recalled millions of its Continuous Positive Airway Pressure, Bi-level Positive Airway Pressure, and Mechanical Ventilator devices because of health risks associated with the polyester-based polyurethane foam (PE-PUR) that was used in the devices to reduce sound and vibration. In testing, Philips discovered that the PE-PUR foam it had used to dampen the sound of the devices could degrade into particles that could be ingested or inhaled by the user, potentially causing cancer, organ failure,



respiratory issues or other significant health issues. A list of the devices affected by the recall can be found on the FDA's website. New York State imposes strict time limitations to file a claim. The statute of limitations for a personal injury action based on a defective medical device generally requires that an action be commenced within three years of the date of discovery. However, the statute of limitations often depends on the particular facts of the case. If you used a recalled CPAP device such as the DreamStation, and have been diagnosed with cancer, organ failure or another permanent injury, please call us to discuss your potential claim.

Bankruptcy Department Spotlight

AS PART OF OUR CONTINUED representation of clients suffering from asbestos disease, Lipsitz, Ponterio & Comerford files claims with bankruptcy trusts set up to compensate individuals exposed to asbestos-containing products. A number of former manufacturers and producers of asbestos-containing products have filed for bankruptcy protection, and over fifty asbestos personal injury liability trusts have been established with the total of combined trust funds valued in excess of one billion dollars. Because these companies filed for bankruptcy protection, it is impossible to sue them. The only way for clients to recover money for their asbestos disease from these companies is by filing claims with the trusts.

Each trust has specific medical and exposure guidelines and the claim valuation varies depending on the type of disease and the degree of economic

hardship. The trusts compensate mesothelioma claimants at a higher level because of the aggressive nature of the disease and because it is generally agreed that the disease is only caused by asbestos exposure. Although a diagnosis of lung cancer or other asbestos-related malignancy can be equally devastating,

the trusts consider that these diseases may have been caused by exposure to other carcinogens, in addition to asbestos.

Ryan D. Ledebur has been leading the Lipsitz, Ponterio & Comerford bankruptcy team since 2016.

“As more companies have sought to avoid fully compensating asbestos victims by filing for bankruptcy protection, our department has grown to meet the needs of our clients. Our team has the skill and experience to navigate the rules and requirements to ensure our clients receive the money they are entitled to from the trusts.”



ASBESTOS SEMINARS

Our firm recently held two seminars about asbestos exposure and your legal rights. The first seminar was held on May 24, 2023 for family members and neighborhood residents who lived or worked in the neighborhood surrounding Durez Plastics. You can view a link to the seminar by visiting our page at <https://lipsitzponterio.com/durez-plastics-asbestos-seminar/>. The second seminar was held on August 23, 2023 for Niagara Falls area workers. The presentation covered asbestos disease and the risk of developing mesothelioma or lung cancer due to asbestos exposure from past operations at plants such as Hooker Chemical, Occidental, Carborundum, Union Carbide, Olin Mathieson, Dupont, Carbide Graphite and Goodyear. The link to the Niagara Falls seminar can be viewed by visiting our page at <https://lipsitzponterio.com/free-asbestos-seminar-for-niagara-falls-plant-workers/>. If you would like any more information about these seminars, please contact us.

You are invited to attend a Seminar on **AUGUST 23, 2023** for Former Plant Workers, Retirees, and their Families and Coworkers.

The presentation will cover asbestos disease and your legal rights. We will discuss the risk of developing mesothelioma or lung cancer due to asbestos exposure from past operations at plants such as HOOKER CHEMICAL, OCCIDENTAL, CARBORUNDUM, UNION CARBIDE, OLIN MATHIESON, DUPONT, CARBIDE GRAPHITE, AND GOODYEAR.

IP Lipsitz, Ponterio & Comerford
Mesothelioma & Catastrophic Injury Attorneys

ATTORNEY ADVERTISEMENT: PAST RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME.



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AWARDS & RECOGNITIONS:



GRIEVING FAMILIES ACT UPDATE

The Grieving Families Act would update New York's wrongful death law by allowing for the recovery of non-economic damages. It would also grant extended family members, such as domestic partners, step-family, aunts, uncles, and grandparents, the right to bring a claim. Although the Governor did not sign the Grieving Families Act into law last year, it has once again passed the Senate and Assembly with bipartisan support. The legislation now awaits action by Governor Kathy Hochul. The Governor must request delivery of the bill from the legislature by year-end. The Governor has three options: 1) she can sign the bill into law as written, 2) she can veto the bill (as she did last year) or 3) she can propose amendments to the bill. The bill would take effect immediately upon enactment and apply to all claims that accrue on or after July 1, 2018. Importantly, the bill would extend the current statute of limitations from two to three years.

- ▶ Nine attorneys at Lipsitz, Ponterio & Comerford, LLC have been recognized by Thomson Reuters as Super Lawyers and Rising Stars in Upstate New York in 2023! Congratulations to our Super Lawyers: John N. Lipsitz, Michael A. Ponterio, John P. Comerford and Anne E. Joynt; and to our 2023 Rising Stars: Zachary J. Woods, Jillian M. Ponterio, Ryan D. Ledebur, Sean M. Esford and Eric R. Winnert.
- ▶ Attorney Anne Joynt also received the UB Law Alumni Association's Distinguished Alumna Award for community service. She is a member of the School of Law's Dean's Advisory Council and a past president of the Law Alumni Association and the UB Law GOLD Group.
- ▶ John Comerford was recognized in the 30th edition of *The Best Lawyers in America*® for his work in Products Liability Litigation.

CONGRATULATIONS! JOSEPH T. KREMER

We are proud to announce that **Joseph Kremer** has passed the Florida bar exam and is now licensed to practice in both New York State and Florida. Joe is an experienced trial lawyer who practices in the area of asbestos litigation, representing individuals suffering from occupational diseases, including mesothelioma and lung cancer. Mr. Kremer has lectured and has written on the remedies available to workers who have developed occupational diseases.



IN THE FIGHT WITH YOU.

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COMMUNITY OUTREACH

Lipsitz, Ponterio & Comerford is dedicated to improving the community where we live and work and where many of our attorneys and staff were born and raised. This year we have supported our community in many ways, including the following events:

- Roswell Park Taste for Life, All-Star Night, and the Ride for Roswell.
- The WNY Women's Foundation and the 2023 What She's Made Of event.
- The Canopy of Neighbors Motown Night.
- The Family Promise of Western New York's Giving Tree Program.
- The University at Buffalo Law Alumni Association.



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