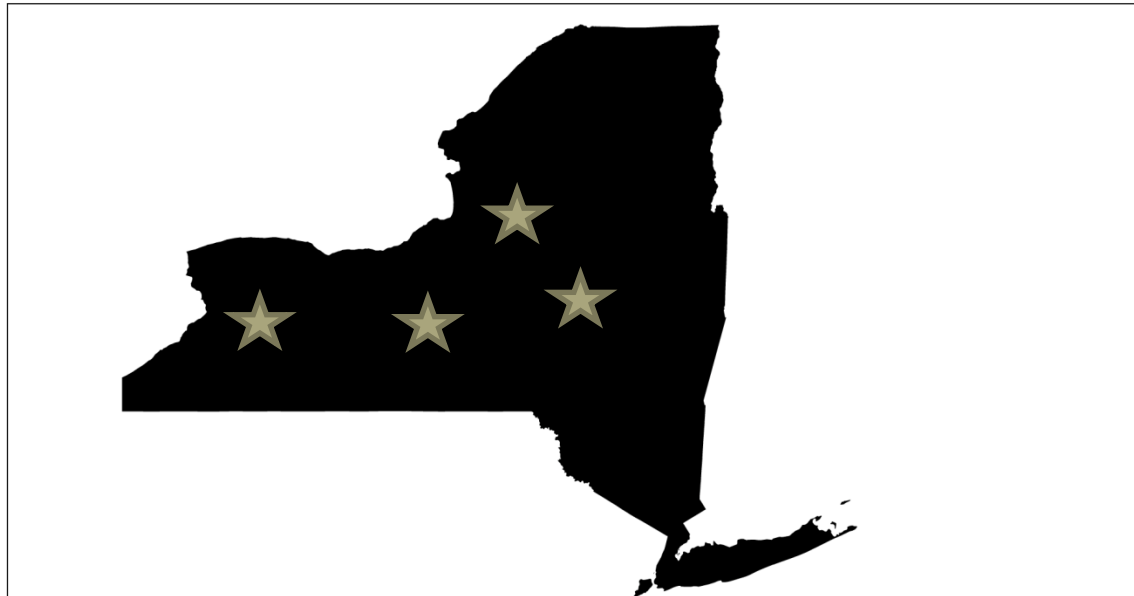


# JURISDICTIONAL UPDATE

## UPSTATE NEW YORK



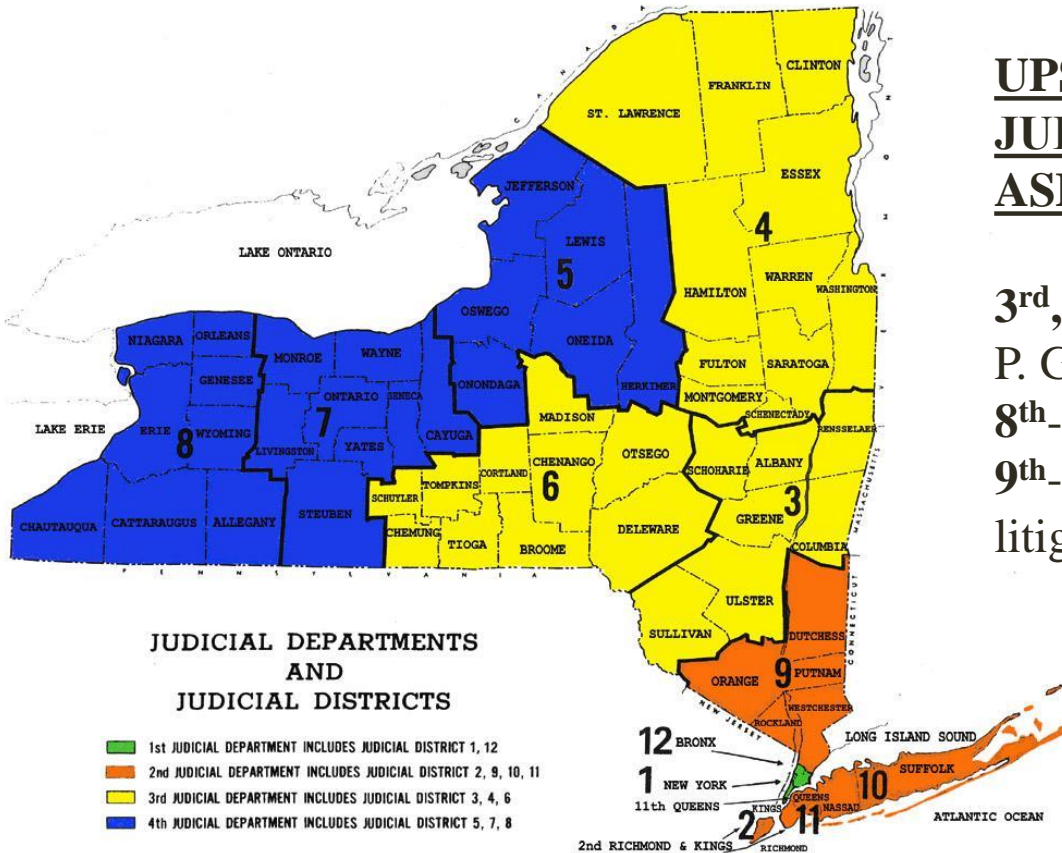
**Joseph W. Belluck, Belluck & Fox, LLP**  
**John P. Comerford, Lipsitz Ponterio & Comerford, LLC**  
**Meagan E. Dean, McGivney, Kluger, Clark & Intoccia, P.C.**  
**Hon. Erin P. Gall, J.S.C.**

## UPSTATE NEW YORK JUDICIAL DISTRICTS' ASBESTOS LITIGATION:

3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> Hon. Erin  
P. Gall, J.S.C.

8<sup>th</sup>- Raymond W. Walter, J.S.C.

9<sup>th</sup>-No assigned asbestos  
litigation Judge



# OVERVIEW

- 2023 Trends
- Verdicts and Trial Proceedings
- Notable Decisions
- Discovery Issues
- Current Dockets
  - Judges' Expectations-updates to practices & procedures
  - 2024 Outlook

# 2023 TRENDS

## Increase In Case Filings

- ❑ Significant increase in both mesothelioma and lung cancer filings across the 3<sup>rd</sup>-8<sup>th</sup> JDALs.
- ❑ Most Active Plaintiffs' Law Firms:
  - ❑ Belluck & Fox-90 (81 in the 3<sup>rd</sup>-7<sup>th</sup> JDALs, 9 in 8<sup>th</sup> JDAL)
  - ❑ Lipsitz, Ponterio & Comerford-68 (22 in the 3<sup>rd</sup>-7<sup>th</sup> JDALs, 46 in 8<sup>th</sup> JDAL)
  - ❑ Weitz & Luxenberg-34 (26 in 3<sup>rd</sup>-7<sup>th</sup> JDALs, 8 in 8<sup>th</sup> JDAL)
  - ❑ Meirowitz & Wasserberg-11 (all in 3<sup>rd</sup>-7<sup>th</sup> JDALs)
  - ❑ Gori-5 (4 in 3<sup>rd</sup>-7<sup>th</sup> JDALs, 1 in 8<sup>th</sup> JDAL)
  - ❑ Maune Raichle-4 (3 in 3<sup>rd</sup>-7<sup>th</sup> JDALs, 1 in 8<sup>th</sup> JDAL)
  - ❑ Early Law Firm-4 (all in 3<sup>rd</sup>-7<sup>th</sup> JDALs)
  - ❑ Richmond Vona-4 (all in 8<sup>th</sup> JDAL)
  - ❑ Levy Konigsberg-2 (both in 3<sup>rd</sup>-7<sup>th</sup> JDALs)

# OPERATIVE CASE MANAGEMENT ORDERS

## Uniform CMO for 3<sup>rd</sup>-7<sup>th</sup> JDALs

- Executed by Hon. Erin P. Gall, J.S.C., February 1, 2021.
- Update to Sec. VII(A)(2)(c)/Exhibit “E”- “Plaintiffs’ First Set of Product Identification Interrogatories and Document Requests *with respect to case-specific worksites.*”
- Approved Standard Interrogatories are in the CMO.

## 8<sup>th</sup> JDAL CMO

- Executed by Hon. James B. Kane, Jr., J.S.C., January 24, 2000.
- Still followed by Justice Walter with certain adjustments to practices/procedures

# TRIAL SCHEDULING

## 3<sup>rd</sup>-7<sup>th</sup> JDALs

- Trials scheduled twice week-Tuesday and Thursday jury selections in county wherein case is venued.
- Trials currently scheduled through August 2025 with 2 per week until February 2025 and an average of 1 per week thereafter.
- Extremis vs. non-extremis* filings.

## 8<sup>th</sup> JDAL

- Trials previously scheduled once per week (Tuesdays) until November 2023. Trials to now be scheduled twice per week to accommodate increased filings.
- Trials currently scheduled through March 2025.

# Confidential Settlement Memoranda

## Prior to Final Settlement Conference:

- Counsel for Plaintiff is to provide the Court with an *ex parte* Confidential Settlement Memorandum containing: (1) the name of the managing settlement attorney for the file; (2) a description of the Plaintiff, including the exposure claimed, the date of diagnosis, the date of passing (if applicable) and the asbestos-related diagnosis; (3) a list of remaining Defendants; (4) the amount of each demand, and the identity of the primary target Defendant(s); and (5) and the factual predicate for liability for each remaining Defendant.
- Counsel for each remaining Defendant is to provide the Court with an *ex parte* Confidential Settlement Memorandum consisting of: (1) the settlement history involving similar claimants including, where applicable, with this specific Plaintiff's counsel; (2) the amount offered for settlement; and (3) the factual predicate of each claimed defense. Any Defendant intending to assert a good-faith, no-pay position at the Conference shall advise the Court and detail the merits supporting that position.
- These memoranda are for *in-camera ex parte* review by the Court only, and should be sent to court attorney in respective jurisdiction.

# 2023 VERDICTS

- ❑ ***Craig Schreiner v Hedman Resources (Erie. Sup. Ct., J. Walter, February 6, 2023)***
  - ❑ Defense Verdict Rendered on February 6, 2023.
    - ❑ Background: 67 year-old mesothelioma claimant. Alleged exposure to asbestos from work in Compound Department at Durez in Niagara Falls, New York for a 1-2 month period of time during the summer of 1974.
    - ❑ As to sole remaining Defendant, Hedman: Mr. Schreiner alleged he was exposed to asbestos from Hedman raw asbestos that was used in his presence at Durez. NO testimonial identification of Hedman.
    - ❑ Hedman's defenses included warnings and legal causation.
    - ❑ Experts:
      - ❑ Plaintiffs: Dr. David Zhang (medical/causation), Dr. Gerald Markowitz (State of the Art), and Gyan Rajhans (Certified Industrial Hygienist/fact witness concerning Hedman).
      - ❑ Defense: Dr. Bruce Case (medical/causation), and James Poole (Certified Industrial Hygienist)



# 2023 TRIAL PROCEEDINGS

1. **February 2023-Craig Schreiner (Erie County-Belluck & Fox)-Hon. Raymond Walter-** tried to verdict against 1 remaining defendant (Hedman), resulting in defense verdict. Jury selection and trial held at Erie County courthouse.
2. **March 2023-Albert Anastasia (Cattaraugus Co.-Weitz & Luxenberg)-Hon. Raymond Walter-** commenced jury selection against 1 remaining defendant (Jenkins); settled mid-jury selection (day 2).
3. **May 2023-Ellis Gershon (Albany County-Belluck & Fox)-Hon. Erin P. Gall-**proceeded against 1 remaining defendant (VW); settled after approximately 1 week of proofs (prior to Plaintiff completing case-in-chief)-Plaintiff put on Markowitz (SOA), co-worker witness, Plaintiff . Jury selection held at the Albany County courthouse.
4. **July 2023-Donald Draper (Oneida County-Belluck & Fox)-Hon. Erin P. Gall-**commenced jury selection against 1 remaining defendant (Clark Equipment); settled after jury selection (1 day).

# NOTABLE RULINGS & DECISIONS

- **Causation**
- **Successor Liability**
- **Expert Discovery**
- **Coverage-Related Decisions  
Litigation**



# CAUSATION

- ❑ *Ellis Gershon and Beverly Gershon v. Volkswagen Group of America, Inc., et al. (Sup. Ct. of NY, Schenectady Co., Index No. 2021-2222)-Hon. Erin P. Gall, J.S.C.-May 2023*
  - ❑ **Background:** Plaintiff was a Mechanic, diagnosed with lung cancer in March 2022, and asserted his disease was caused by exposure to asbestos from Defendant's brakes, clutches, and gasket material.
  - ❑ **Arguments:** Volkswagen moved for summary judgment on general and specific causation grounds-asserting that Plaintiff's lung cancer was caused by tobacco product use, rather than its products, and further that no specific causation can be established (that exposure from its products was a substantial contributing factor to development of disease). In support of motion, Defendant relied on expert affidavits of Dr. Feingold and Charlie Blake, CIH. In opposition, Plaintiffs submitted the affidavits of Dr. moline. Dr. Zhang, and Dr. Finkelstein. Plaintiffs asserted that Dr. Finkelstein's report offered a conservative dose estimate of the asbestos exposure incurred by Plaintiff and found the dose sufficient to cause his disease.
  - ❑ **Held:** Denied summary judgment, finding that material questions of fact exist as to expert credibility and positions concerning causation, needing to be determined by a jury.
    - ❑ Notably-Court rejected defense argument that Plaintiffs' affidavits and reports submitted in response to the Defense reports should be disregarded and Plaintiffs experts should be limited to their 3101(d) disclosures, finding that such disclosures are not the equivalent of trial testimony or a detailed affidavit in response to summary judgment, though they 'certainly raise material issues of fact and credibility.'

# CAUSATION

- ❑ ***Christopher R. Campise, as Executor of the Estate of Jeffrey Campise v. Whittaker Clark & Daniels, et al. (Sup. Ct. of NY, Erie Co., Index No. 814239/2021)-Hon. Raymond W. Walter, J.S.C., April 2023***
  - ❑ **Background:** Plaintiff alleges Decedent (deceased at 42 years of age) was exposed to asbestos from the use of consumer talcum powder products at various points in his life, including to Chanel No. 5 Body Powder, Jean Nate talcum powder, and Avon Imari and Skin So Soft talcum powders (age birth-10 years old), as well as Caldesene powder (as an infant) and Gold Bond Medicated Powder routinely (beginning at age 13). Plaintiff alleges WCD supplied asbestos-containing talc for the manufacturers of Gold Bond, Chanel No. 5 Body Powder, Jean Nate talcum powder, Avon Imari, Skin So Soft talcum powders, and Caldesene medicated powder and use of the products caused Decedent's disease.
  - ❑ **Arguments:** Defendant moved for summary judgment, arguing that while it sold talc to the companies who produced the talc products, there is no evidence (only speculation) that its talc was actually contained within the products used by Decedent, and asserted general and specific causation arguments (cosmetic talc does not cause mesothelioma and the levels of talc inhaled by Decedent were not enough to cause disease).
  - ❑ **Held:** Denied summary judgment with the exception of punitive damages claim, finding that (1) Defendant's argument that a jury must speculate as to the final batch formulations to find WCD is without merit, finding that the records show WCD was a supplier of talc for the products in question during the time Decedent was exposed (citing to *Otis v Bausch v Lomb*), (2) a question of fact exists as to whether WCD's talc contained asbestos (battling expert reports of Seagrave and Moline), and (3) triable questions of fact exist as to general and specific causation, and (4) Plaintiff failed to raise an issue of fact regarding punitive damages, that 'the acts of the Defendant were wanton, reckless, and malicious.'
    - ❑ General Causation-Plaintiff's evidence submitted through the Affidavits of Moline, as well as scientific article by Gordon/Fitzgerald/Millette re cosmetic talcum powder causing meso in women, and several other published studies, creates a question of fact re general and specific causation.
    - ❑ Specific Causation-Plaintiff's expert report of Dr. Moline, who opined to a reasonable degree of medical certainty that alleged exposure to the dust from asbestos-containing cosmetic talc products the Plaintiff was exposed to were above levels that have been shown to cause mesothelioma. Found that Dr. Moline's review of exposure data from published literature and using the data to assess specific exposure ranges for products at issue in this case creates a question of fact as to specific causation. (Relying on language in *Nemeth* that notes a 'precise quantification of exposure is not always required.'

# CAMPISE GRANT OF SUMMARY JUDGMENT AS TO PUNITIVE DAMAGES CLAIM

“Punitive damages are not to compensate the injured party but rather to punish the tortfeasor and to deter this wrongdoer and others similarly situated from indulging in the same conduct in the future” (*Ross v. Louise Wise Services, Inc.*, 8 NY3d 478, 489 [2007]). To warrant an award of punitive damages, there must be proof of recklessness, or a conscious disregard of the rights of others (1B NY PJI3d 2:278 at 970 [2023]).”

**HELD:** “The evidence shows that there was a debate in the scientific community regarding the safety of consumer talc products and that government agencies like the FDA merely had concerns over a potential safety hazard. While the industry failed to use the most cutting-edge technology available to detect asbestos in its talc, this is not enough to rise to a deliberate concealment of dangerous levels of asbestos. Plaintiff, therefore, has failed to raise an issue of fact regarding punitive damages.”

# DISCOVERY LIMITATIONS

- ❑ *Shirley Kulcavage, individually and as personal representative of the Estate of Edward Kulcavage v. Burnett Process, Inc., et al. (Sup. Ct. of NY, Monroe Co., Index No. E2021009637)-Hon. Erin P. Gall, J.S.C.-May 2022*
  - ❑ **Background:** Plaintiffs' counsel sued over 230 separately-named Defendants in a case involving alleged exposure of the Decedent at the Corning Plant in NY. Following the filing of the action, and before the commencement of any substantive discovery by Plaintiffs, Plaintiffs' counsel served on every sued defendant demands for responses to both: (1) Plaintiffs' standard interrogatory and document production requests, and (2) Plaintiffs' contractor PID interrogatories and document production requests. Defense counsel made application to the Court requesting Plaintiffs be precluded from seeking overbroad discovery as to all sued defendants with no basis or projected PID. Extensive oral argument was held on this issue.
  - ❑ **Held:** Found in Defendants' favor and clarified interrogatory discovery requirements in 3<sup>rd</sup>-7<sup>th</sup> JDALs, and granted Defendants' application to preclude Plaintiffs' from seeking responses to *standard* interrogatory and document production requests prior to the production of evidence identifying a particular Defendant as a probable source of Decedent's exposure to asbestos, but ruled Defendants are required to respond to Plaintiffs' 'First Set of Product Identification Interrogatories & Document Requests' with respect to case specific work-sites, pursuant to Sec. VII(A)(2)(C) of the 3<sup>rd</sup>-7<sup>th</sup> JDAL CMO.
    - ❑ Held that Plaintiffs' 'First Set of Product Identification Interrogatories & Document Requests' must not deviate from the Exhibit A provided (effectively replaced 'Exhibit E' to the current CMO).

# EXPERT DISCOVERY

- A party is entitled to discovery from an expert witness only when special circumstances exist, and no such circumstances existed in that action (finding that no special circumstances exist when the purpose of the deposition would be to expose alleged flaws underlying the expert's opinion), see *Hallahan* (3<sup>rd</sup> dept.) and *Padro* (1<sup>st</sup> dept.) decisions.
  
- Handling of Expert Depositions in Talc Matters
  - Woods
  - Hough



# COVERAGE-RELATED DECISIONS/ARGUMENTS

- ***Wayne W. Meissner and Jill G. Meissner v. Ridge Construction, Inc., et al. (Sup. Ct. of NY, Monroe Co., Index No. E2020001359)-Hon. John J. Ark, J.S.C.-July 2022***
  - **Background:** *Meissner* case was tried to verdict on November 15, 2019 and resulted in a \$8,000,000 verdict obtained by Plaintiffs' counsel, Lipsitz & Ponterio, in Monroe County before Justice Ark (the last remaining defendant at trial, Ridge Construction, was apportioned 80% liability with a finding of recklessness against it). \$2,500,000 of the total verdict was for loss of consortium to the Plaintiff's spouse. The remaining \$5,500,000 was for past and future pain and suffering of the Plaintiff.
  - **Held:** Court ultimately found in favor of the Plaintiffs on post-verdict NY Ins. Law. Sec. 3420 action regarding coverage-related issues, rendering a judgment totaling approximately \$4.85 million against the insurance carrier (finding that \$3,913,172.57, plus 9% interest per year from the date of the verdict to the current decision [11/15/19/7/15/22], totaling \$937,873.08 in interest, is owed to Plaintiffs). The decision covers issues concerning timely notice of a claim, whether a particular claim constitutes an "occurrence" under the policies at issue, whether an alleged injury constitutes an "injury-in-fact" under the policies at issue, whether there was 'full and proper' underlying exhaustion, whether the claimed damages were properly allocated to the excess policies, and whether the purported "all sums" allocation appropriately accounts for contribution from the policyholder under NY law.



## 2<sup>nd</sup> Action – Coverage Trial against Lloyd’s pursuant to Insurance Law 3420



Here we go again...

# Meissner's Trial Lawyers



# Lloyd's Defenses



- Late Notice
- Exhaustion
- Injury-In-Fact
- All Sums vs. Pro Rata
- Advocate Witness
- Consortium Claim

## Turkeys Pushing for Thanksgiving?



Be Careful What You Wish For...

# Late Notice

## CONCLUSION AS TO NOTICE.

Interestingly, Underwriters requests leniency (“the duty to issue written notice of disclaimer to the insured should be deemed to be optional”) for its purported failure to properly notify its insured of its disclaimer, as required by a statute (§ 3420 [a] [3]), but rigor for any tardiness in the plaintiffs’ notification to Underwriters of their claim. Underwriters’ decision whether to pursue and perfect actual notice of disclaimer to the insured under the peculiar circumstances of this case was a reasonable litigation judgment. Similarly, plaintiffs’ counsel’s initial reliance on Ridge’s trial counsel to notice excess insurance carriers as well as his evolved determination that excess carriers may be implicated were reasonable litigation judgments. Comparatively, Underwriters’ “no notice” may be more egregious than plaintiffs’ “late notice”.

# Fourth Department, Rochester, NY – October 24, 2023

Rochester, New York  
Tuesday, October 24, 2023

Courtroom is talking...

Oral Arguments



**IN THE MATTER OF THE R.W. BURROWS GRANTOR FAMILY TRUST**

868 : CA 22-00967 : Summary Judgment



11:01:15 AM



# Exhaustion

Plaintiffs acknowledge that the Policies attach upon actual payment of the \$1,000,000 Lumbermans primary policy and that the only evidence of “actual payment” is Lumbermans 2005 buy-back settlement agreement with Eastman Kodak. Accordingly, the plaintiffs have granted Underwriters a credit for the full amount of the primary policy so as to trigger Underwriters excess policy payment obligations. Underwriters rejects this offer. However, if Ridge was financially viable, it would be responsible “to fill the gap” in coverage for the \$1,000,000 Lumbermans default. Since Mr. Meissner now “stands in the shoes” of Ridge, he has taken responsibility for Ridge’s obligation by granting the \$1,000,000 credit against the Policies, thereby “filling the gap” equivalent to full underlying exhaustion and activating Underwriters’ and the judgment payment obligations. Any motions to the contrary are denied.

# Fourth Department, Rochester, NY – October 24, 2023

Rochester, New York  
Tuesday, October 24, 2023

Courtroom is talking...

Oral Arguments



**IN THE MATTER OF THE R.W. BURROWS GRANTOR FAMILY TRUST**

868 : CA 22-00967 : Summary Judgment



11:01:15 AM



## Injury-In-Fact

Defendants are bound by the factual findings in the state court<sup>27</sup> personal injury actions that Mr. Meissner sustained injury from exposure to Ridge's use of materials containing asbestos between 1970 and 1971. Thus, even though plaintiffs' personal injury claims did not accrue until discovery of injury from asbestos exposure, plaintiff had sustained an injury as contemplated by Insurance Law § 3420 during the life of the relevant insurance policies. As a result, plaintiffs are entitled to recover their judgments from the excess insurers in accordance with the terms of the policies. The court grants his (their) motion for summary judgment as a fully covered event. Any motions to the contrary, including the motions<sup>28</sup> to preclude the testimony of *Drs. Brody and Utell*, are denied.


## Carrier Corp. v Allstate Ins. Co.

Supreme Court of New York, Appellate Division, Fourth Department

October 9, 2020, Decided; October 9, 2020, Entered

396 CA 18-02292

# Injury-In-Fact Experts Must Testify

 Neutral  
As of: July 21, 2021 7:09 PM Z

**Carrier Corp. v Allstate Ins. Co.**  
Supreme Court of New York, Appellate Division, Fourth Department  
October 9, 2020, Decided, October 9, 2020, Entered  
396 CA 18-02292

**Reporter**  
187 A.D.3d 1616 \*\*, 133 N.Y.S.3d 697 \*\*, 2020 N.Y. App. Div. LEXIS 5833 \*\*, 2020 NY Slip Op 05620 \*\*, 2020 WL 5987010

[\*\*\*\*] CARRIER CORPORATION, ELLIOTT COMPANY, PLAINTIFFS-RESPONDENTS-APPELLANTS, ET AL., PLAINTIFF, v ALLSTATE INSURANCE COMPANY, SOLELY AS SUCCESSOR-IN-INTEREST TO NORTHBROOK EXCESS AND SURPLUS INSURANCE COMPANY, FORMERLY KNOWN AS NORTHBROOK INSURANCE COMPANY, ET AL., DEFENDANTS, AND FIREMAN'S FUND INSURANCE COMPANY, DEFENDANT-APPELLANT-RESPONDENT.

**Notice:** THE LEXIS PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION. THIS OPINION IS UNCORRECTED AND SUBJECT TO REVISION BEFORE PUBLICATION IN THE OFFICIAL REPORTS.

**Prior History:** Carrier Corp. v. Allstate Ins. Co., 62 Misc. 3d 1212(A), 113 N.Y.S.3d 472, 2018 N.Y. Misc. LEXIS 6781 (Nov. 21, 2018)

**Core Terms**

partial summary judgment, insured, excess policy, exposure, declaring, fifth-layer, plaintiffs, asbestos, policies, occurs, injury-in-fact, trigger, personal injury, reorganization, occurrence, coverage, court properly, defense motion, court erred, contends, parties

**Case Summary**

**Overview**  
HOLDINGS: [1]-To the extent that the court resolved the subject motion for partial summary judgment upon its consideration of the parties' submissions, the court erred in granting the motion, even assuming, arguendo, that plaintiffs met their initial burden on the motion by

submitting evidence in admissible form that asbestos-related injury actually begins upon first exposure; defendant raised a triable issue of fact in opposition; [2]- Following extensive discovery, plaintiffs met their initial burden on a partial summary judgment motion by establishing with extrinsic evidence in admissible form that, notwithstanding the ambiguity arising from the absence of an exhibit referred to in the reorganization agreement that ostensibly was to set forth the assets being transferred, the insurance rights were transferred to a company under the reorganization agreement.

**Outcome**  
Judgment modified and affirmed as modified.

**LexisNexis® Headnotes**

Civil Procedure > Judgments > Summary Judgment > Entitlement as Matter of Law

**HN1:** Summary Judgment, Entitlement as Matter of Law

A summary judgment motion presents a snapshot of the proof at a moment in time, and the denial of such a motion establishes nothing except that summary judgment is not warranted at that time and does not constitute an adjudication on the merits.

Insurance Law > -> Commercial General Liability Insurance > Coverage > Asbestos Claims

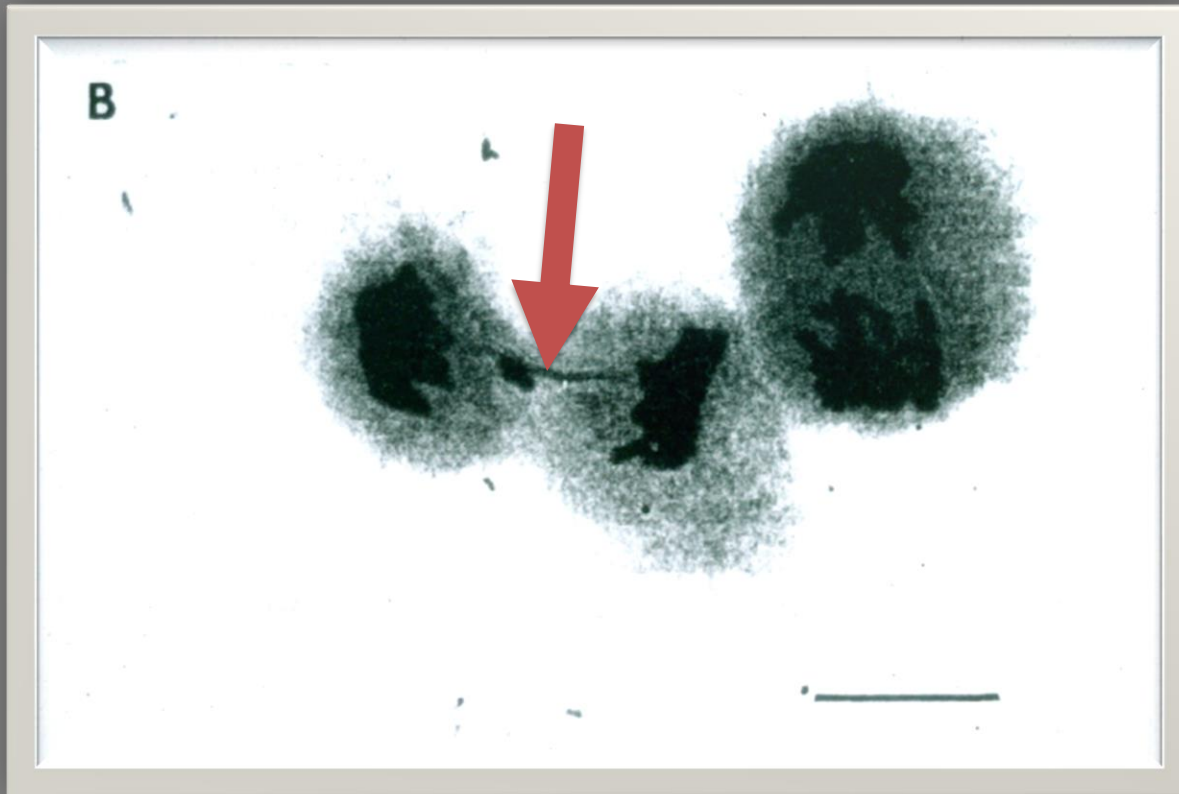
**HN2:** Coverage, Asbestos Claims

In an asbestos action, injury-in-fact rests on when the injury, sickness, disease or disability actually began.

**Arnold R. Brody, Ph. D.**

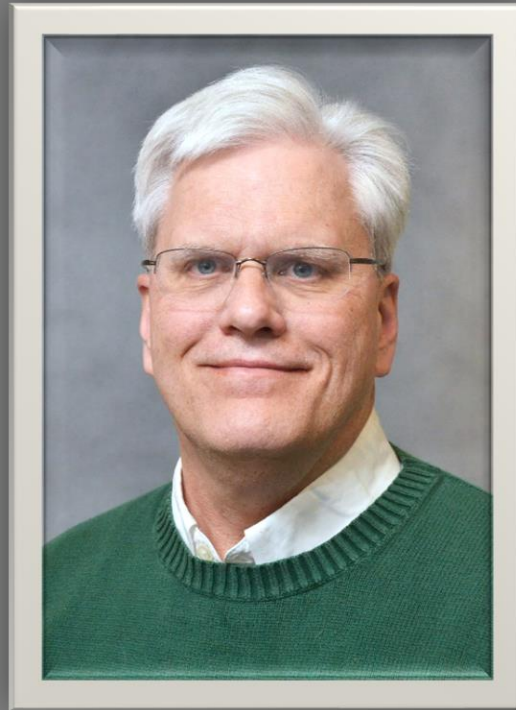


## Chrysotile Induced Aneuploidy



Aneuploidy is the presence of an abnormal number of chromosomes in a cell.

# Robert Kratzke, MD



Defense Witness on Injury

1 A. Well, as I said, I never personally believed it,  
2 that it was going to be accurate. And I think the majority of  
3 researchers now believed that that is not the case, that the  
4 SV40 virus --

5 Q. You signed your name to a medical article to a  
6 proposition as an author that at the time you thought was  
7 false?

8 MR. CASIMIR: Objection, your Honor.

9 MR. COMERFORD: Can he answer, your Honor?

10 THE COURT: I'll let him answer. Answer the  
11 question.

12 Q. So you signed on to something you thought at the  
13 time may be false. Is that fair, Doctor?

14 MR. CASIMIR: Objection, your Honor.

I had my doubts that SV40 caused mesothelioma.

19 accurate. I had my doubts that SV40 caused mesothelioma.

20 Q. So you had doubts?

21 A. But, you know --

22 Q. But you're an author of that article, right?

23 A. I am an author.

24 THE COURT: Hold it. Did you have doubts at  
25 the time of the article, or do you have the doubts now?

1 THE WITNESS: Well, I certainly have the doubts  
2 now. At the time of the article I, I had doubts as well.

THE WITNESS: Well, I certainly have the doubts  
now. At the time of the article I, I had doubts as well.

7 unrelated. Those of us who received the Salk polio  
8 vaccine are not at an increase for mesothelioma.

9 MR. COMERFORD: May I proceed, your Honor?  
10 Thank you.

11 Q. Sticking with the article, I think I've got this  
12 highlighted. Referring to page 181. It says, In any event,  
13 asbestos may induce DNA damage either by direct physical  
14 interaction or by the indirect action of reactive oxygen

.es.  
Did I read that correctly, Doctor? Did I read that  
ctly?

10 A. Yeah.

19 Q. I don't want to rush you.

20 A. I think you -- it sounds accurate from my  
21 recollection of the article. It's not highlighted here.

22 Q. Oh, I apologize. It's on page 181 on the left side.  
23 I thought it was highlighted. If I didn't do that --

24 A. I went to a different tab.

25 Q. Take your time. Do you see it there?

My client's case was delayed two years because of this...



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF MONROE

WAYNE W. MEISSNER and JILL G. MEISSNER,  
his spouse,

Plaintiff,

- against -

RIDGE CONSTRUCTION CORPORATION, et al.,

Defendants.

Index No. E2020001359

Motion Seq. No.

Hon. John J. Ark, J.S.C.

**DEFENDANTS CERTAIN UNDERWRITERS AT LLOYD'S, LONDON'S  
NOTICE OF MOTION TO DISQUALIFY ADVOCATE WITNESS  
JOHN P. COMERFORD, ESQ. AS TRIAL COUNSEL FOR PLAINTIFFS**





You'll be damned if you do,  
and damned if you don't.

Eleanor Roosevelt

“ quote fancy

# CURRENT DOCKETS

- **Current Trial Calendars- 3<sup>rd</sup>-8<sup>th</sup> JDALs**
- **Updates to Practices/Procedures**
  - **8<sup>th</sup> JDAL-**
    - **Confidential Settlement Memoranda**
    - **MIL Procedures**
  - **3<sup>rd</sup>/4<sup>th</sup>/6<sup>th</sup> JDAL-**
    - **Confidential Settlement Memoranda**
    - **MIL Procedures**
- **Outlook on future trial proceedings/practices**

# COURT CONTACT INFORMATION

## 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> JDALs-

- Judge: Erin P. Gall, J.S.C. ([egall@nycourts.gov](mailto:egall@nycourts.gov))
- Court Attorneys: Chelsea Scaramuzzino ([cscaramu@nycourts.gov](mailto:cscaramu@nycourts.gov)), Mark Canary ([mcanary@nycourts.gov](mailto:mcanary@nycourts.gov))
- Court Secretary: Christina Massoud ([cmassoud@nycourts.gov](mailto:cmassoud@nycourts.gov))
- Court Calendar Clerk: Krista Mastroianni ([kmastroi@nycourts.gov](mailto:kmastroi@nycourts.gov))
- Court Contact Info:
  - Address: Oneida County Supreme Court; 200 Elizabeth St., Utica, NY 13501
  - Phone: 315-266-4297
  - Fax: 315-266-4719

## 8<sup>th</sup> JDAL-

- Judge: Raymond W. Walter, J.S.C. ([rwalter@nycourts.gov](mailto:rwalter@nycourts.gov))
- Court Attorney: Matthew Szalkowski, Esq. ([mszalkow@nycourts.gov](mailto:mszalkow@nycourts.gov))
- Court Secretary: Ross Kostecky ([rkosteck@nycourts.gov](mailto:rkosteck@nycourts.gov))
- Court Clerk: Elaine Xenos ([exenos@nycourts.gov](mailto:exenos@nycourts.gov))
- Court Contact Info:
  - Address: Erie County Supreme Court; 50 Delaware Avenue, Part 33, Buffalo, NY 14202
  - Phone: 716-845-9450