



SOLICITORS

ASBESTOS DISEASE NEWSLETTER

March 2009 – Issue 3

What are plaques?

Pleural Plaques are calcified deposits on the surface of the lung. They are caused by exposure to asbestos fibres and take decades to form. They are a sign of exposure to asbestos, but expert medical opinion states that they do not cause respiratory injury, breathlessness or loss of lung capacity themselves. However, among sufferers, they are a cause of grave concern and anxiety, because they confirm that the sufferer has been exposed to asbestos, and is therefore at risk of suffering a severe asbestos condition, in particular mesothelioma.



Asbestos fibres

The legal story

For decades prior to 2006, sufferers of Pleural Plaques could expect to receive damages payments for this condition of £15,000.00 to £20,000.00. Then in 2006, the Defendants challenged the Claimants right to recover damages for this condition, alleging that Pleural Plaques was not a condition which resulted in any injury to a sufferer, in the case of *Grieves & Others the FT Everard & Sons & Others [2005] EWHC88(QB)*. At first instance, Mr Justice Holland held that Pleural Plaques was a compensatable condition. He found that the anxiety most sufferers had as a result of having the condition, when combined with the possibility of future injury, amounted to an injury. However, he reduced the award of general damages for pain and suffering to £6,000.00 - £7,000.00.

Unfortunately, the Court of Appeal disagreed with

Mr Justice Holland, overturning his decision. The case went further to the House of Lords, where it was upheld that there is no actionable injury. It was found that Pleural Plaques do not cause respiratory injury, being analogist to a mole on the surface of the skin. The Claimants had argued that the possibility of future damage, in the shape of a more serious condition, and the anxiety caused by that prospect resulted in actionable damage. The Court dismissed that argument.



Pleural Plaques

Where are we now?

The decision in the House of Lords was a cruel blow to tens of thousands of Pleural Plaques sufferers, who have to live with the

anxiety of the disease. Following the House of Lords decision there has been extensive lobbying of Government. This has led to a consultation process. Gordon Brown has made positive remarks about the Government seeking to address the decision in the House of Lords.



House of Lords

A Government announcement is imminent (as at 6th March 2009,) and let us hope that it will follow the Scottish precedent, where legislation has been introduced to remedy the injustice, and to allow the tens of thousands of sufferers to be justly compensated. After all, what would you rather have, a six month whiplash injury to the neck with no long term sequelae, or asbestos Pleural Plaques on the lung; even minor six month whiplash injuries attract damages awards of £1,500.00 and above.

“Our Client Commitment”

We work in conjunction with Macmillan Cancer Support and the British Lung Foundation and aim to donate £1000 from the costs of each successful case to the charity the client chooses. This further illustrates our commitment to the sufferers of asbestos related diseases.



As a postscript we should point out that this condition is not to be confused with pleural thickening. This condition, if of sufficient extent, reduces the elasticity of the lung and therefore lung capacity, and does represent an injury for which damages are payable.

“Meet the Team”



Craig Howell, Partner
craig.howell@oliverandco.co.uk



Helena Jones, Solicitor
helena.jones@oliverandco.co.uk



James Cameron, Solicitor
james.cameron@oliverandco.co.uk



Helen Simcock, Paralegal
helen.simcock@oliverandco.co.uk

Contact Details

Tel: 0800 058 2737

www.whatsmyasbestosclaimworth.com

Issue No. 3 March 2009

To have our monthly newsletter emailed directly to you please visit our website.