

10/26/2018

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: AC 17-0694

Arthur L. Frank, MD, PhD
Professor, Chair Emeritus**DREXEL UNIVERSITY**
Dornsife
School of Public Health*Department of Environmental &
Occupational Health*

September 4, 2018

Ethan A. Welder, Esq.
McGarvey, Heberling, Sullivan & Lacey, P.C.
345 First Avenue East
Kalispell, MT 59901-4935

Re: Rhonda Braaten

Dear Mr. Welder:

I am in receipt of records in the case of Ms. Braaten and you have asked me to review them and render my judgment regarding any evidence of an asbestos-related disease.

Ms. Braaten was born in Libby, Montana in 1960, grew up there, and graduated from high school in 1978. She lived in multiple houses in Libby until moving away in 2004. She lived in houses up close to the railroad tracks on which asbestos-containing vermiculite was moved, and during this time, played and walked on the railroad tracks frequently. She also spent time at the ball fields and the rail yard. Mrs. Braaten smoked one-half to one pack of cigarettes per day from 1978 to 2000 and never smoked in the home. The record indicates possible minor use of products that may have contained talc.

The materials that I reviewed included her exposure history, the report of Dr. Michael, other pathology records, CARD Clinic records, Glacier Oncology, and the other available records.

In 2010, Ms. Braaten was diagnosed with ovarian cancer at a fairly advanced stage and for years underwent extensive treatment and suffered from having this disease including needing chronic pain medications. She was followed regularly for this condition. The records of her treating physicians made it clear that they were aware of her prior exposures to asbestos. In 2012, after being seen at the CARD Clinic, she was diagnosed with asbestos-related pleural disease. In October 2016, she was diagnosed with a malignant mesothelioma from tissue taken from her chest. She died a month later.

Based upon my review of the materials sent to me, it is my opinion, held with a reasonable degree of medical certainty, more probable than not, that Ms. Braaten suffered from three asbestos-related conditions. First, I believe she developed asbestos-related pleural disease as noted by the radiographic changes in the materials sent to me. Secondly, she developed two malignancies, the first being her ovarian cancer, first diagnosed in 2010 and then her mesothelioma diagnosed in 2016, which led to her death soon thereafter. The scientific literature clearly documents that ovarian cancer can be caused by exposure to asbestos, and this has been noted by such entities as IARC. Clearly, mesotheliomas are almost always

September 4, 2018

Re: Rhonda Braaten

Page 2

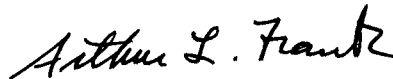
related to prior exposures to asbestos. The work of Selikoff, who extensively studied asbestos-exposed populations, made note of the fact that individuals with exposure to asbestos were far more likely to develop multiple primary cancers related to asbestos exposure than would otherwise be seen in the general population. The co-occurrence of these three potentially asbestos-related conditions in this one individual further supports that they are due to her significant exposures to asbestos. The cumulative exposures Mr. Braaten had to asbestos that was contained in the vermiculite in Libby would have been the cause of her three conditions. Neither her smoking nor her possible minimal exposures to talc products, unless the talc contained asbestos, significantly contributed to these conditions.

My fuller views on the relationship of exposure to asbestos and the subsequent development of disease can be found in my affidavit of December 20, 2016, which I incorporate here as if written out in full.

The hazards of asbestos have been known for more than a century and the need to protect individuals written about more than eighty years ago.

Should you have any questions about this matter please feel free to contact me.

Sincerely yours,

A handwritten signature in black ink that reads "Arthur L. Frank". The signature is written in a cursive, flowing style.

Arthur L. Frank, MD, PhD

ALF/kmw



August 24, 2018

Ethan A. Welder, Esq.
McGarvey, Heberling, Sullivan & Lacey, P.C.
345 First Avenue East
Kalispell, MT 59901-4935

Re: Gerrie Flores

Dear Mr. Welder:

I am in receipt of records in the case of Ms. Flores and you have asked me to review them and render my judgment regarding any evidence of an asbestos-related disease.

Ms. Flores was born in 1946 in Illinois and grew up in California. She moved to Libby in 1979 with her husband and two sons. From 1979-1987, her family lived in a home just outside Libby located within 50' of the railroad tracks that left Libby heading west and carried vermiculite. She also lived at the Orchard Vale trailer park for a short period in 1979 within a quarter mile of the railroad tracks and approximately 1.5 miles from the river loading point, and on Kootenai River Road from 1987-1990 within a third of a mile of the railroad tracks. During the periods, she also spent time in downtown Libby where she shopped and worked. She attended ball games at the baseball fields that were adjacent to the rail yard and the W.R. Grace bagging plant. She worked part-time at a healthcare facility located less than half a mile from the main tracks and less than half a mile from the downtown Libby railyards. Her own employment history was reviewed and, aside from environmental exposures at the downtown healthcare facility, none of her jobs exposed her to asbestos. One of her sons was diagnosed with asbestos-related disease.

In August 2015, having been seen at the CARD Clinic, Dr. Black found an irregular density on a CT scan of the chest as well as some circumscribed plaque. Additional evaluation was undertaken and she was found to have developed an adenocarcinoma of the lung. The smoking history that appears to be most accurate for Ms. Flores was that she smoked as many as twelve cigarettes a day between 1961-1967 and has not smoked since. Her medical records stated that she had given up cigarettes as of 1968.

The materials that I reviewed included her exposures history, surgical records, pathology records, CARD Clinic records, chest imaging from 8/12/2015, Kalispell Regional Medical Center records, and the other available records. Based upon my review of the materials sent to me, it is my opinion, held with a reasonable degree of medical certainty, more probable than not, that Ms. Flores developed two asbestos-related conditions. First, I believe she developed asbestos-related pleural disease characterized by the

August 24, 2018

Re: Gerrie Flores

Page 2

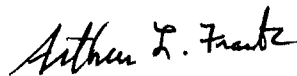
radiographic findings in her medical records, and as a result of living in and around Libby with its community contamination that has been well-documented. Secondly, and more importantly, Ms. Flores also developed an adenocarcinoma of the lung which was caused, in my opinion, by her exposures to asbestos from the Libby vermiculite that was pervasive in her community. Given the long hiatus from cigarette smoking, there appears to be no role of cigarettes in the production of her lung cancer. The cumulative exposures that she had to asbestos that came from the vermiculite would have been the cause of these two conditions.

My fuller views on the relationship of exposure to asbestos and the subsequent development of disease can be found in my affidavit of December 20, 2016, which I incorporate here as if written out in full.

The hazards of asbestos have been known for more than a century and the need to protect individuals written about more than eighty years ago.

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Sincerely yours,

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Arthur L. Frank, MD, PhD

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