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## **An Asbestos Decision That Disserves Our Vets**

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# An Asbestos Decision That Disserves Our Vets

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Asbestos is one of those lethal toxins that should not persist as a problem in this country, but it does. Companies still use it, workers are still exposed to it and [10,000 Americans](#) still die from asbestos-related illnesses every year.

In January 2014, a [new ruling](#) was issued in an asbestos case involving Garlock Sealing Technologies. You may never have heard of this company, but anyone who has worked on a Navy ship or submarine probably has. Garlock made gaskets that contain asbestos, which are used in pipes and valves that transport hot fluids — so hot, in fact, that the gaskets often disintegrate and require replacement. Sometimes by the time a worker gets to the asbestos gasket, it is “crushed” and “baked to the surface” and has to be pulled or torn off in “bits and pieces,” as one worker explained in testimony. This creates dust. And the dust is inhaled.

Garlock is one of the world’s largest asbestos-containing gasket and packing manufacturers. It has been a major player in the asbestos industry for decades, and was even a founder and member of the Board of Governors of the Asbestos Textile Institute, along with more well-known companies like Raybestos and Johns-Manville. Like all asbestos companies, it has known for decades that its asbestos was lethal. In the 1980s, Garlock warned companies that inhalation of airborne fibers from its gaskets could cause “well-known long term effects of Asbestosis, lung cancer and mesothelioma.”

Mesothelioma is a horrible lung disease that is always fatal, with most dying within 18 months. It was Garlock’s mesothelioma victims who were involved in this new case. But in January, the judge — in his first and only asbestos case — decided to reduce by about 90 percent the amount Garlock owes its more than 4,000 Navy vets and other mesothelioma victims.

In order to support this incredibly harsh decision that could bring great suffering to many Navy vets who do not deserve it, the judge made findings and drew conclusions that no experienced asbestos judge has ever done, and which, in fact, strain credulity. He decided

that Garlock was the victim of a decades-long campaign by asbestos victims and their attorneys to mislead court after court, concluding that the entire legal system in these cases — where Garlock lost before juries and settled thousands of claims — was “infected” by dying victims and their lawyers. These victims supposedly “abused” Garlock by duping the company’s top-notch litigators in thousands of cases, as well as every other experienced judge in every case brought against Garlock. Not only that, the victims themselves, many of whom are veterans who served their country, must have knowingly participated in misleading the courts.

Common sense suggests otherwise. But so does overwhelming evidence. The judge grossly misstated the “science” around Garlock’s asbestos and asbestos disease. He found that Garlock’s asbestos, which workers inhaled, was not lethal even though the company’s own incriminating documents say it is. So do the [Occupational Safety & Health Administration](#) (OSHA), the [Environmental Protection Agency](#) (EPA), the [International Agency for Research on Cancer](#) (IARC) and the [World Health Organization](#) (WHO). Scientists believe that Garlock’s asbestos is a significant cause of asbestos diseases; there is no safe level of exposure to asbestos. Yet the judge found none of this “probative,” suggesting it proves nothing.

To cut compensation to these victims, the court said that it would ignore Garlock’s past litigation record or the prior judgment of judges as guidance, suggesting that victims and their attorneys had tricked them all. This is absurd. The reason Garlock settled cases was not because of anything the victims and their lawyers did, but because of the crushing evidence against it. Perhaps nothing was more instructive than the jury verdict in the 2004 case brought by Robert Treggett, a nuclear trained machinist who, while serving in the Navy, repaired and maintained nuclear propulsion plant equipment, including Garlock gaskets. In the Treggett case, the jury awarded substantial punitive damages against Garlock, directed specifically at the company’s conduct of “oppression.” In the new case, however, the judge misstated the actual trial testimony of Mr. Treggett, claiming that Mr. Treggett said things he never said. This misstatement provided a basis for finding that his attorneys engaged in misconduct. It is one of the more deeply troubling aspects of this decision, and the reason behind this blatant misrepresentation remains entirely unclear.

This case has generated a good deal of reaction from the asbestos lobby, which is seeking legislation to limit industry liability and make it harder for dying asbestos victims to obtain

compensation. However, the bottom line is this: at best this decision is an outlier that should not be the basis for any policy decisions. At worst, it raises disturbing questions about a decision that contradicts two decades of rulings by experienced judges, verdicts from juries throughout the country, the opinion of scientists for every regulatory agency in the nation, and Garlock itself.