

Efforts to Improve the Asbestos Litigation Environment

By Mark Behrens and Cary Silverman

**R**uling may result in greater transparency between the asbestos bankruptcy trust and civil tort systems.

# The Garlock Bankruptcy Order and What It Means for Defense Counsel

In January 2014, U.S. Bankruptcy Judge George Hodges in Charlotte, North Carolina, issued an important decision that is likely to have far-reaching consequences for asbestos defendants in the tort system and perhaps other

companies that enter bankruptcy due to asbestos-related liabilities. *In re Garlock Sealing Tech., LLC*, 504 B.R. 71 (W.D.N.C. Bankr. 2014). Following a trial that lasted several weeks, Judge Hodges found that gasket and packing manufacturer Garlock Sealing Technologies, LLC’s settlements of mesothelioma claims in the tort system were “infected by the manipulation of exposure evidence by plaintiffs and their lawyers.” He said, “[t]he withholding of exposure evidence by plaintiffs and their lawyers was significant and had the effect of unfairly inflating the recoveries against Garlock....” He estimated Garlock’s liability for pending and future mesothelioma claims to be \$125 million—about *one billion less* than the \$1–1.3 billion requested by plaintiff committees.

Judge Hodges’ decision documents how plaintiffs’ lawyers abuse the opaqueness

between the asbestos bankruptcy trust and civil tort systems to gain an unfair litigation advantage. Judge Hodges found the withholding of exposure evidence by asbestos plaintiffs’ counsel to be “widespread and significant.”

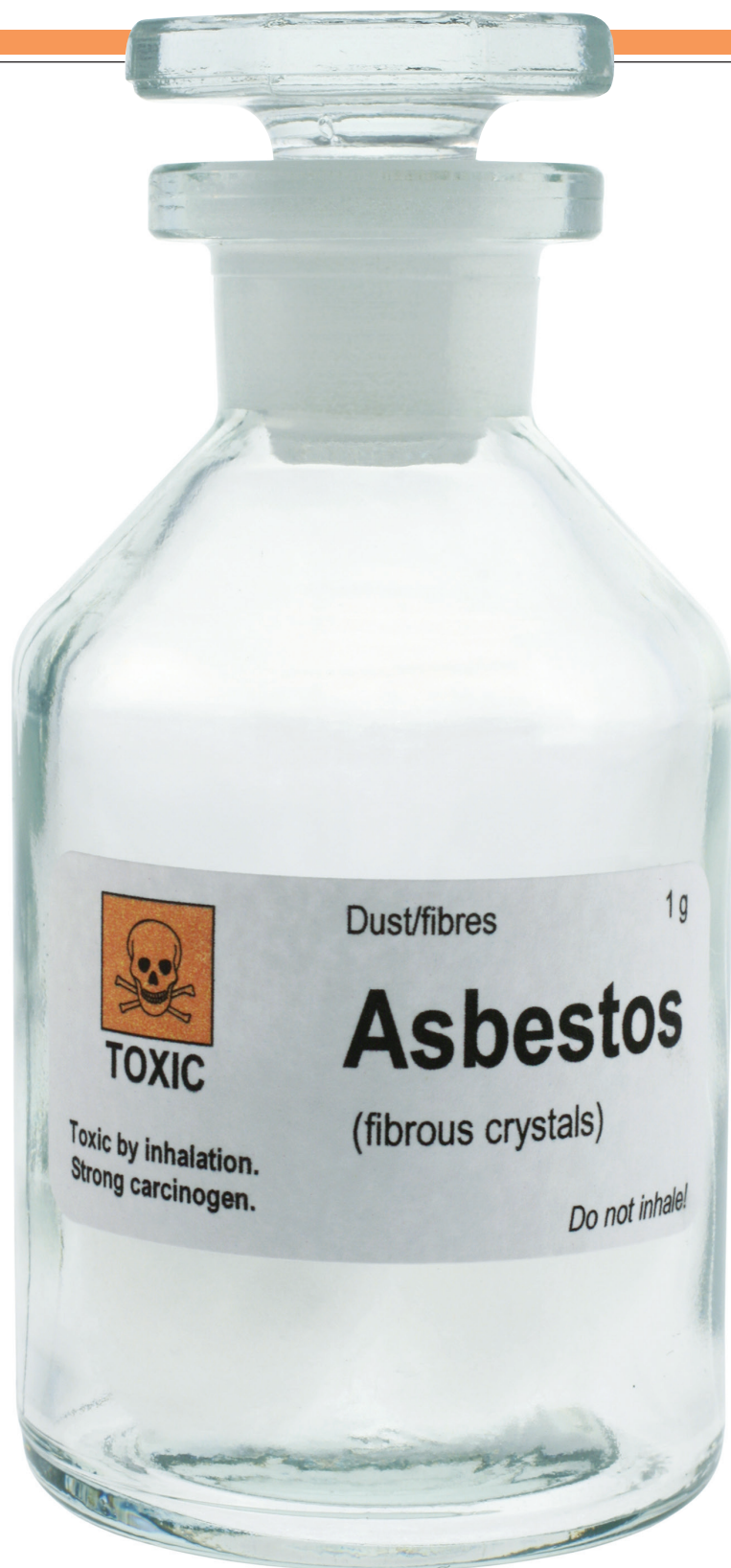
The ruling should assist defense counsel seeking discovery of plaintiffs’ asbestos trust claim submissions. In addition, the decision has fueled efforts to require pre-trial submission of trust claims by plaintiffs so that defendants and juries have information about all of a plaintiff’s exposures to asbestos. The ruling also supports the need for federal Furthering Asbestos Claim Transparency (FACT) Act legislation.

### Garlock Litigation’s History

Originally and for many years, companies that manufactured asbestos-containing thermal insulation were among the princi-



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pal targets of asbestos plaintiffs' lawyers. These products were friable and contained long, rigid amphibole fibers, rather than the more common, but far less toxic, chrysotile form of fiber. Shipbuilders and Navy personnel working around heavy amphibole asbestos exposures on World War II ships

and insulators blowing large clouds of free amphibole or mixed fibers were classic settings for many cases.

Over time the litigation morphed and plaintiffs' lawyers began to file hundreds of thousands of cases on behalf of plaintiffs who had little or no physical impairment.

By the late 1990s, the asbestos litigation had reached such proportions that the U.S. Supreme Court noted the "elephantine mass" of cases and referred to the litigation as a "crisis." As summarized by Judge Hodges, "There were some abuses involving mass screenings of potential claimants and bogus diagnoses of the disease." Mass filings pressured many traditional defendants into bankruptcy, including virtually all manufacturers of asbestos-containing thermal insulation.

Garlock had been a relatively small player in the asbestos tort system and was "very successful in settling (and rarely trying) [its] cases." Things changed in the early 2000s as the remaining thermal insulation companies filed bankruptcy and exited the tort system. See generally Victor Schwartz & Mark Behrens, *Asbestos Litigation: The "Endless Search for a Solvent Bystander,"* 23 *Widener L.J.* 59 (2013). In this new environment, where plaintiffs' counsel could control exposure evidence, Garlock was put at a major disadvantage. As explained by Judge Hodges, "As the focus of plaintiffs' attention turned more to Garlock as a remaining solvent defendant, evidence of plaintiffs' exposure to other asbestos products often disappeared." Garlock had a few large verdicts and was forced to pay higher values to settle cases. The company continued settling cases with relative success, but at higher amounts, until its insurance was exhausted.

In June of 2010, Garlock and affiliates Garrison Litigation Management Group and The Anchor Packing Co. (collectively, Garlock), filed a voluntary petition in the U.S. Bankruptcy Court for the Western District of North Carolina to establish a trust to resolve all current and future asbestos claims against it pursuant to Section 524(g) of the U.S. Bankruptcy Code.

### **Bankruptcy Court's Order Draws Back Curtain on Plaintiffs' Practices**

In the bankruptcy case, Judge Hodges ordered extensive discovery and conducted a lengthy evidentiary hearing to estimate Garlock's liability for mesothelioma claims. He reviewed the scientific evidence allegedly linking Garlock's gaskets to asbestos-related diseases. He also received evidence that Garlock's settlements in the tort system were forced to artificially high levels as a re-



sult of plaintiffs withholding key evidence relating to alternative exposures to asbestos.

Judge Hodges said that “it is clear under any scenario that chrysotile is far less toxic than other forms of asbestos.” Judge Hodges also found that the “most reliable and probative” peer-reviewed scientific reports “confirm[] that exposure to asbestos from end users of encapsulated asbestos products

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is minimal.” He concluded, “It is clear that Garlock’s products resulted in relatively low exposure to asbestos to a limited population and that its legal responsibility for causing mesothelioma is relatively de minimus.” Judge Hodges noted that the Sixth Circuit Court of Appeals said in an individual pipe-fitter’s case, *Moeller v. Garlock Sealing Tech., LLC*, 660 F.3d 950, 954–55 (6th Cir. 2011), that “the comparison is as a ‘bucket of water’ would be to the ‘ocean’s volume.’”

Perhaps most importantly, the court found that evidence that Garlock needed to attribute plaintiffs’ injuries to insulation products “disappeared” once those companies filed bankruptcy. The judge said, “This occurrence was a result of the effort by some plaintiffs and their lawyers to withhold evidence of exposure to other asbestos products and to delay filing claims against bankrupt defendants’ asbestos trusts until after obtaining recoveries from Garlock (and other viable defendants).”

For instance, “[o]ne of the leading plaintiffs’ law firms with a national practice published a 23-page set of directions for instructing their clients on how to testify in discovery.”

The court also said that in 15 settled cases in which Garlock was permitted to have full discovery, “Garlock demonstrated

that exposure evidence was withheld in *each and every one* of them.” Judges Hodges then described several of these cases to drive home the point.

He said that in a California case that resulted in a \$9 million verdict against Garlock, the plaintiff “did not admit to any exposure from amphibole insulation... and claimed that 100 percent of his work was on gaskets.” Discovery in the bankruptcy case revealed that the plaintiff’s lawyers had filed 14 trust claims after verdict, including several against amphibole insulation manufacturers. “And most important,” said Judge Hodges, “the same lawyers who represented to the jury that there was no Unibestos insulation exposure had, seven months earlier, filed a ballot in the Pittsburgh Corning bankruptcy that certified under ‘penalty of perjury’ that the plaintiff had been exposed to Unibestos insulation.” In total, the plaintiff’s lawyers failed to disclose the plaintiff’s exposure to 22 other asbestos products.

In a Philadelphia case that Garlock settled for \$250,000, the plaintiff “did not identify any exposure to bankrupt companies’ asbestos products” in his tort lawsuit. Further, in answers to written interrogatories, the plaintiff’s lawyers said the plaintiff had “no personal knowledge” of such exposure. Discovery in Garlock’s bankruptcy case showed that “just six weeks earlier, those same lawyers had filed a statement in the Owens Corning bankruptcy case, sworn to by the plaintiff, that stated that he ‘frequently, regularly and proximately breathed asbestos dust emitted from Owens Corning Fiberglas’s Kaylo asbestos-containing pipe covering.’” In total, Judge Hodges said, “this plaintiff’s lawyer failed to disclose exposure to 20 different asbestos products for which he made Trust claims.” “Fourteen of these claims were supported by sworn statements, that contradicted the plaintiff’s denials in the tort discovery,” said Judge Hodges.

Judge Hodges also described a New York case that Garlock had settled during trial for \$250,000. “The plaintiff had denied any exposure to insulation products,” according to Judge Hodges. After the case settled, however, the plaintiff’s lawyers filed 23 trust claims on the plaintiff’s behalf, including eight trust claims that were filed within 24 hours of completing the settlement with Garlock.

In another California case that Garlock settled for \$450,000, a former sailor denied that he ever saw anyone installing or removing pipe insulation on his ship. After he settled with Garlock, the plaintiff’s lawyers filed 11 trust claims on his behalf, seven of which were “based on declarations that [the plaintiff] personally removed and replaced insulation and identified, by name, the insulation products to which he was exposed.”

It was more of the same in a Texas case that resulted in a \$1.35 million verdict against Garlock. The plaintiff denied knowing the name “Babcock & Wilcox” and his lawyers told the jury in his tort case that there was no evidence that the plaintiff’s injury was caused by exposure to Owens Corning insulation. Discovery in the Garlock bankruptcy case established that the day before the plaintiff denied any knowledge of Babcock & Wilcox, his lawyers had filed a trust claim against it on his behalf. After the verdict, the lawyers filed a claim with the Owens Corning Trust. Judge Hodges said, “Both claims were paid—upon the representation that the plaintiff had handled raw asbestos fibers and fabricated asbestos products from raw asbestos on a regular basis.”

Judge Hodges remarked that the fact that exposure evidence was withheld in “*each and every one*” of the 15 settled cases in which Garlock was permitted broad discovery was “surprising and persuasive.” “For fifteen plaintiffs represented by five major firms, the pattern of nondisclosure is the same,” he said.

In contrast to the cases in which exposure evidence was withheld, there were several cases in which Garlock obtained trust claims that had been filed by plaintiffs and was able to use them in its defense at trial. “In three such trials, Garlock won defense verdicts, and in a fourth [Garlock] was assigned only a 2 percent liability share.”

Judge Hodges bluntly characterized Garlock’s tort litigation as infected by a “startling pattern of misrepresentation” that unfairly inflated plaintiffs’ recoveries against Garlock following the surge of asbestos bankruptcies by insulation defendants in the early 2000s. The court explained that “while it is not suppression of evidence for a plaintiff to be unable to identify exposures, it is suppression of evidence for a plaintiff to be unable to iden-

tify exposure in the tort case, but then later (and in some cases previously) to be able to identify it in Trust claims.”

Judge Hodges said that he could not accept the “settlement approach” to estimation offered by the plaintiff committees. Their approach sought to base estimates of Garlock’s liability on an extrapolation of the company’s history of resolving mesothelioma claims in the tort system. Instead, Judge Hodges accepted Garlock’s “legal liability approach,” which considered the merits of claims in the aggregate by applying an econometric analysis of the projected number of claimants and their probability of success. He concluded that “Garlock’s aggregate liability for present and future mesothelioma claims totals \$125 million,” not the \$1–1.3 billion requested by plaintiff committees.

### Reaction to *Garlock* Decision

The frank language and documented abuses in Judge Hodges’ order are making waves in the legal profession and mainstream media. The coverage is reminiscent of the 2005 ruling by the manager of the federal silica multidistrict litigation, U.S. District Judge Janis Graham Jack, who recommended the dismissal of all but one of 10,000 federal court silica claims because the plaintiffs’ diagnoses were fraudulently prepared. Judge Jack said, “[T]hese diagnoses were driven by neither health nor justice: they were manufactured for money.”

A *Wall Street Journal* editorial characterized Judge Hodges’ opinion as “a reminder to other judges that their courtrooms are supposed to be places that render justice, not rubber stamps for plaintiff scams.” *Forbes* decried the “shenanigans plaintiff lawyers have engaged in for years as they sucked billions of dollars out of otherwise solvent companies in search of money.” *Bloomberg Businessweek* declared that asbestos litigation “has reached a truly repulsive phase” as “ever-more-troubling evidence emerges that influential members of the plaintiffs’ bar have lost their moral bearings.”

The response by media outlets that do not traditionally lean pro-business has been particularly interesting. For instance, a *New York Times* columnist wrote:

As to why anyone should care whether innocent companies have to pay millions to asbestos victims and their lawyers, I would offer three reasons. First,

when victims get more than they should under the rules, it means that someone else down the road will wind up with less than he or she should. Second, litigation designed to bring innocent companies to their knees is an impediment to economic growth and job creation. And, finally, there is the rule of law, which the asbestos lawyers suing Garlock clearly flouted.

National Public Radio broadcast a story calling the *Garlock* decision a “watershed moment.” NPR noted, “No one argues that people suffering from mesothelioma shouldn’t get compensated. Instead, it’s a matter of the right companies paying the right amounts.” The *Huffington Post* said that plaintiffs who have played by the rules by honestly seeking compensation from the companies that actually caused them harm will lose out to plaintiffs willing “to become perjury pawns for those who would game the system.”

### Other Instances of Trust Claims Abuses

The *Garlock* case has “laid bare the massive fraud that is routinely practiced in mesothelioma litigation,” says Lester Brickman, a Cardozo School of Law professor who has researched asbestos litigation for more than 20 years and testified on behalf of *Garlock*. Together with other documented instances of evidentiary abuses in asbestos cases, it is becoming increasingly clear that the problems described by Judge Hodges are not rare outliers.

Another widely reported example occurred in *Kanarian v. Lorillard Tobacco Co.* in Cleveland in 2007. The defendant was sued over an asbestos-containing filter in a brand of cigarettes that it sold for a short time many decades ago. Trust claims filed by the plaintiff revealed inconsistencies between allegations made by the plaintiff in the court case and in his trust claims. The *Cleveland Plain Dealer* reported that the judge’s decision to order the plaintiff to produce his trust claim forms “effectively opened a Pandora’s box of deceit.” The judge later told the *Cleveland Plain Dealer*, “I never expected to see lawyers lie like this..... It was lies upon lies upon lies.” The judge ultimately barred a prominent California asbestos plaintiffs’ firm from his court after he found that the firm and one

of its partners failed to abide by the rules of the court proscribing dishonesty, fraud, deceit, and misrepresentation. The Ohio Supreme Court let the judge’s ruling stand.

In a 2011 Maryland case, *Warfield v. AC&S, Inc.*, the defendants aggressively pursued discovery of trust claims and were forced to file motions to compel, despite the fact that prior rulings made it clear that

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trust claims materials must be produced. The case was described by New York defense attorney James Stengel in September 2011 testimony before a congressional committee: “At a hearing on the matter, plaintiff’s counsel explained that he had been slow in producing the trust materials because he disagreed with the court’s prior ruling, some two years previously, and went on to complain that the court had ‘opened Pandora’s Box’ by requiring their disclosure.” When production was finally made on the eve of trial, the “reasons for counsel’s reluctance to produce the trust materials were made clear. There were substantial and inexplicable discrepancies between the positions taken in [c]ourt and the trust claims.”

In another Maryland case described by Mr. Stengel, “*Edwards*, the plaintiff had, prior to trial, failed to disclose whether or not he had filed any claims with bankruptcy trusts. In addition, as trial drew near, plaintiff amended his discovery responses to assert that the only asbestos-containing material to which he had been exposed was that of the only remaining solvent defendant.” Two weeks prior to trial, however, the plaintiff produced claims materials relating to 16 trusts. “Again, there was a clear inconsistency in the alleged exposure. Significantly, most of the trust forms had been filed in 2008, before the initial discovery responses,” Mr. Stengel explained.



In a Virginia case described by Louisiana defense attorney Leigh Ann Schell in May 2012 testimony before a congressional committee, *Dunford v. Honeywell Corp.*, the plaintiff's assertion that his asbestos-related illness was due to exposure only to friction products was contradicted by three defendant automakers that showed that the plaintiff had made multiple trust

that no bankruptcy submissions had been made and no monies had been received. Two days before the trial was set to begin, however, the plaintiff's counsel reported the existence of two bankruptcy trust settlements. By late afternoon of the following day, the day before trial, the defendant learned that a total of 20 bankruptcy trust claims had been submitted.

In an Oklahoma case, *Bacon v. Ametek, Inc.*, defendant CertainTeed Corp. learned at a pretrial hearing in 2011 that the plaintiff had failed to disclose 19 asbestos bankruptcy trust claims and 11 signed affidavits from product identification witnesses that were submitted with the claims. The trust claim submissions and co-worker affidavits disclosed exposures to many asbestos products that were never identified during discovery.

In a New Jersey case, *Barnes and Crisafi v. Georgia Pacific*, the plaintiff's counsel disclosed the existence of bankruptcy trust claims submissions during a 2102 pretrial conference. The disclosure came about only after defense counsel independently reached out to a representative of the Johns-Manville Trust who confirmed that a claim had been made on behalf of one of the plaintiffs. Counsel for the plaintiff subsequently disclosed the existence of multiple other trust filings and attempted to explain the lack of earlier disclosure on the grounds that the filings were "deferred claims" and were filed by another law firm. In response, the court stated that no such distinction was expressed in the court's discovery order and that the plaintiffs clearly had an obligation to identify and produce this information. The court postponed the trial.

In a Texas case, *Stoekler v. American Oil Co.*, plaintiff's counsel waited until the third day of a 2004 trial to disclose the existence of additional bankruptcy trust claims submissions. The trust claims revealed exposures to a broader range of asbestos products over a longer period of time. The court took issue with the discrepancies between the trust submissions and statements made in the plaintiff's multiple depositions that no additional asbestos exposures existed. The plaintiff's counsel attempted to defend these discrepancies on the grounds that the plaintiff had never seen the trust submission documents because they were submitted by counsel;

an explanation to which the court replied: "you know where this goes, to the Code of Professional Ethics."

### Garlock's Meaning for Defendants

The *Garlock* decision should be required reading for defense counsel and judges in asbestos cases. No matter what the final outcome will be in the *Garlock* bankruptcy, the facts uncovered and noted by Judge Hodges in his opinion after his detailed review of the evidence should not change.

Defense counsel should make a priority of finding ways to educate judges in asbestos cases about the *Garlock* ruling. It may not be intuitive for a busy state court judge in a tort case to research and read an opinion by a federal bankruptcy judge in Charlotte. Opportunities may arise with respect to the admissibility of low dose plaintiffs' expert causation and with respect to discovery of trust claim submissions.

The *Garlock* ruling provides support for requiring plaintiffs to prove their product liability cases against low dose defendants in ways that more accurately reflect the true liability in each case. Judge Hodges heard from several scientific experts and closely examined their methodologies to determine which were inconclusive and which were persuasive. He described studies relied upon by one plaintiffs' expert as "pseudo-science at best." Other plaintiffs' experts based their opinions on studies of workers in very high exposure settings, such as miners or manufacturing or textile workers, and then they applied those findings to low dose applications without an adequate basis. (These issues are also covered in Mark A. Behrens & William L. Anderson, *The "Any Exposure" Theory: An Unsound Basis for Asbestos Causation and Expert Testimony*, 37 Sw. U. L. Rev. 479 (2008).) The studies cited by *Garlock's* defense expert and deemed persuasive to Judge Hodges may be useful for tort defendants in low dose exposure cases. *Garlock's* expert found "no statistically significant association between low dose chrysotile exposure and mesothelioma." Defendants also can use the court's rejection of certain plaintiffs' experts in their own cases.

Furthermore, defense counsel can use the ruling to encourage the entry of orders requiring plaintiffs to produce trust claims.

## The *Garlock* ruling

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claims certifying exposure to products made by other asbestos defendants. The plaintiff also reportedly filed a separate tort action against these asbestos defendants. The judge described the case as the "worst deception" used in discovery that he had seen in his 22 years on the bench.

Delaware Superior Court Judge (ret.) Peggy Ableman provided another example in March 2013 testimony before a congressional committee. Judge Ableman discussed a case that she presided over in which the plaintiffs filed a lawsuit against 22 asbestos defendants. Although the court had a standing order requiring the plaintiffs to disclose all bankruptcy trust claims materials, and the defendants specifically requested this information in interrogatories, "nowhere did plaintiffs identify exposure through any of the twenty entities to whom bankruptcy claims were submitted." Instead, the plaintiffs claimed that the decedent was exposed to asbestos solely through laundering her husband's work clothes throughout his career as an electrician, and "emphatically reported" to the court and the sole remaining defendant

Many courts have approved defendants' requests to compel the production of trust claims submissions to discover information such as plaintiffs' work histories and exposures to asbestos.

The *Garlock* ruling demonstrates how aggressively seeking information about plaintiffs' claimed asbestos exposures can more reliably uncover which asbestos products actually caused a plaintiff's harm. By uncovering a plaintiff's full exposure history, defense counsel are better able to cross-examine plaintiffs and uncover attempts by unscrupulous plaintiffs to tell inconsistent exposure histories to trusts and juries. Jurors are given the tools to reach fully informed decisions about which companies caused a plaintiff's harm. Settlements values will also better reflect a defendant's fair share of responsibility for a plaintiff's injury.

On high-volume dockets, the *Garlock* decision should spur groups of defendants to ask courts to create standing rules to require plaintiffs to disclose trust claims. Several major asbestos litigation jurisdictions have already adopted case management orders (CMOs) that order the production of asbestos trust claims information submitted by plaintiffs. These include courts in San Francisco, Philadelphia, Detroit, and the coordinated statewide asbestos litigation Delaware. CMOs applicable to West Virginia and Texas asbestos cases require plaintiffs not only to produce trust claims that have been filed, but also to provide information about potential trust claims. CMOs that govern Massachusetts and New York City asbestos cases go even further and compel a plaintiff to file trust claims before trial. With the *Garlock* decision illustrating the improper failure of plaintiffs to disclose trust claims, defendants have more ammunition to convince courts to approve CMOs that require plaintiffs to file and produce all trust claims before trial.

In bankruptcy cases, the *Garlock* court's rejection of the settlement history model of estimating liability could help defendants demonstrate how the deck has been stacked against them in the past and to argue for liability models as a basis of estimating future trusts. Presently, it is uncertain how Judge Hodges' ruling will affect the outcome of *Garlock's* bankruptcy case.

*Garlock* has also fueled efforts to enact asbestos bankruptcy trust transparency laws. These laws require plaintiffs to file their trust claims before trial and to produce copies of the final executed claim forms when pursuing tort claims against solvent defendants. In the wake of the *Garlock* decision, Wisconsin enacted legislation that was carried over from last year and is similar to laws previously enacted in Ohio and Oklahoma.

*Garlock* also provides support for federal Furthering Asbestos Claim Transparency (FACT) Act legislation. The U.S. House of Representatives passed a bill in November 2013. The FACT Act would require asbestos trusts to compile and release quarterly reports on claimants seeking payments for asbestos exposure. The legislation has not been considered in the Democrat-led Senate, but if the Senate changes hands in the November 2014 election, the *Garlock* decision should boost the bill's chance of success.

### More to Come...

More shock waves may be on the horizon. The day before Judge Hodges' decision, *Garlock* filed four adversary complaints under seal in the U.S. Bankruptcy Court for the Western District of North Carolina alleging conspiracy, fraud, and Racketeer Influenced and Corrupt Organizations Act (RICO) claims against several law firms and attorneys. A *Garlock* spokesperson told *Forbes* that the complaints "allege that these firms concealed evidence about their clients' exposure to asbestos products and concealed it in litigation against" *Garlock*. Earlier, *Garlock* had filed a lawsuit against another plaintiffs' law firm in the same court alleging fraud, negligent misrepresentation, and civil conspiracy claims related to alleged withholding of exposure evidence in *Garlock* tort cases.

*Garlock's* RICO cases come on the heels of a major win by CSX Transportation, Inc., in a racketeering lawsuit against two plaintiffs' lawyers from the defunct Pittsburgh law firm Peirce Raimond & Coulter PC. The lawyers allegedly hatched a plot with a radiologist to fabricate asbestos claims. A jury in the case handed down a \$429,240 verdict that was increased to \$1.3 million in September 2013 by West Virginia Federal District Judge Frederick Stamp, Jr. Organi-

zations such as the American Tort Reform Association have supported such actions to help promote the integrity of the civil justice system.

Other important developments relate to the *Garlock* trial and related exhibits. Key parts of the trial that addressed suppression of evidence by the plaintiffs' lawyers were closed to the public and are under seal due to a confidentiality agreement. *Legal Newswire*, an Internet-based news-wire dedicated to coverage of litigation, has asked a Charlotte federal district court to unseal the trial testimony and exhibits discussed in Judge Hodges' decision. Asbestos defendants Ford Motor Co., Honeywell International, Inc., Volkswagen Group of America, Inc., and Crane Co.; insurers Mount McKinley Insurance Co. and Everest Reinsurance Co. as well as Resolute Management, Inc. and the AIG Member Companies; debtors Specialty Products Holding Corp. and Bondex International, Inc.; and health insurer Aetna, Inc., and service provider The Rawlings Co. LLC have also made efforts to obtain access to evidence in the case. While the district court will decide issues relating to the unsealing of misrepresentation evidence, U.S. Bankruptcy Court Judge Hodges has recently permitted access to "Rule 2019" statements that plaintiffs' lawyers filed in *Garlock's* bankruptcy. The statements require lawyers to identify clients with claims against a bankrupt company as well as the nature of those claims.

### Conclusion

The *Garlock* decision should spark more intense judicial scrutiny of the relationship between plaintiffs' asbestos bankruptcy trust fund claims and tort lawsuits against solvent defendants. The decision is a must-read for asbestos defense counsel and should be brought to the attention of judges in asbestos cases and policymakers.

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Robinson, Bradshaw & Hinson, P.A. represented *Garlock* at the estimation trial that produced Judge Hodges' order. Caplin & Drysdale, Chartered represented the Asbestos Claimants Committee; Orrick, Herrington & Sutcliffe LLP served as counsel for the Future Claimants Representative. 