

# Legal aspects



Legal Aspects The purpose of this article is to write a critique of a topic pertaining to the legal aspects of the Occupational Safety and Health professional's duties, responsibilities of working environment. The format that this paper will utilize is to first provide an introduction of the article followed by an analysis of the legal aspects of the OS&H topic. Lastly, this paper will conclude with a summary of the article's conclusions and my own opinions. The article that will be examined for the purpose of this paper was authored by Johnson (2009) and was titled Ex-Grace Officials on Trial in Asbestos Poisoning. The article first highlights that five former mine executive that worked for W. R. Grace and Co. and will be facing federal criminal charges. The case stems from a now closed mine and mill that extracted and processed asbestos-tainted mineral. Workers and their family members operating in a remote town in Montana experienced over 200 deaths and many more illnesses associated with exposure to the mines dust clouds of vermiculite (Which had been infused with naturally occurring asbestos). Much of the prosecution rests on testimony from a toxicologist that in 1977 drew comparisons between vermiculite mine in South Carolina and the Montana mine and immediately noticed the differences in the mineral content and worker health. This case is unusual insofar as typically prosecutors typically do not press federal charges in cases involving asbestos and typically leave these issues for civil courts. The cornerstone of the prosecution stems from the allegation that the company and managers were well aware for several decades that their workers were indeed being exposed to dangerous levels of asbestos and even went so far as to misrepresent the actual hazard level to their employees. Ultimately this would boil down to charges of fraud, conspiracy as well as several violations

of the United States Clean Air Act. The legal aspects that this case ultimately boil down to the company and the managers potentially, knowingly endangering the health and safety of their employees by ignoring medical advice from analysts, as well as hiding this knowledge from their employees. Even though the mine has already been paying medical bills for the victims and was ordered to pay \$250 million in environmental cleanup (Which was an action that led the firm into bankruptcy) this still does not alleviate them of their any criminal liability. Although it is unclear as to the outcome of this case one has to assume that they are innocent until proven guilty. While there is little question that people have become sick as a result of exposure to asbestos, it may be difficult to ‘prove’ that the managers had acted negligently or had committed conspiracy because much of the evidence was collected decades ago there is an indication that they may not have knowingly violated several laws. On a personal level I believe that the owners and management of this mine did knowingly put their workers in danger. Of course one could argue that mining is an inherently dangerous profession and workers are aware that they are likely to be exposed to number extra risks. Having said that one could argue that if the mine management were indeed aware that there was an increased risk of asbestos exposure, then they should have done everything they could to better protect their employees by ensuring they wear better respiratory protection or take more frequent showers etc. If this is demonstrated in the trial that the management was negligent than I see no reason as to why they would not be held criminally responsible. Reference Johnson, K (February 18th 2009) Ex-Grace Officials on Trial in Asbestos Poisoning. New York Times

[online] Available at <http://www.nytimes.com/2009/02/19/us/19asbestos.html> Accessed on January 26th 2011.