

Pesticides and You

VOL. 6, NO. 3
AUGUST, 1986

News From the National Coalition Against the Misuse of Pesticides (NCAMP)

One in a series of NCAMP "How-To's"

Pesticide Litigation: Finding a Lawyer to Make Your Case

What kinds of legal strategies have been successful in litigating pesticide exposure damage?

Successful suits have alleged failure to warn, property damage, misapplication, negligence, consumer fraud, product liability, punitive damages, and fear of future harm.

What kind of background information must be compiled for successful litigation?

Successful litigating requires a compilation of pesticide specific information on: medical and scientific issues (chemistry of the chemical, human symptomology and animal/cell toxicology), litigation (case summaries and factual, expert and legal materials), and government regulatory activity (regula-

tory chronology, government publications and public testimony).

Who do you sue?

This depends on the situation. In some cases it may be the applicator, in others the manufacturer, in yet others the regulatory authority which may have used the product. Often it is a combined suit against a number of different parties potentially responsible for the exposure.

Can you publicly disclose the issues behind the case?

Any materials filed with the court become public record and thus copies can be sent to any interested parties, unless disallowed by the judge. You should urge that all such material be shared with others and that your lawyer

resist unwarranted attempts to impose protective orders which make documents secret.

What should I expect to pay?

You should always thoroughly discuss the payment issue with your attorney before the suit is begun. Lawyers can be paid either hourly rates or on a contingency basis, in which case the lawyer generally receives 1/3 or more of your award or settlement and/or attorney's fees from the defendant.

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PAY readers should note that NCAMP has recently established a "Chlordane Clearinghouse" designed to help lawyers develop case material for chlordane suits. Contact NCAMP for further information.