

Anchin Alert

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Causation Expert Precluded

Members of Anchin, Block & Anchin's Litigation, Forensic and Valuation Services Group are often called upon to serve as expert witnesses to testify in regards to damages resulting from a liability that caused the damage. Without the causation being proved, damages would not be awarded to the plaintiff.

In a case¹ recently reported in the *New York Law Journal*, a plaintiff alleged that, while working for the defendants, he was regularly exposed to silica and other hazardous substances from the defendants' operations and, as a result, developed an autoimmune disease.

In order to recover damages, the plaintiff would have to prove that the defendants were liable and that the liability (the defendant caused the plaintiff to be exposed to hazardous substances) was the cause of the damage (it was the exposure to the hazardous substances that caused the plaintiff to develop the autoimmune disease).

In support of their causation claim, the plaintiffs planned on having a medical expert, Dr. Wang, testify that the exposure to the hazardous substances caused the plaintiff to develop the autoimmune disease.

The defendants moved to exclude Dr. Wang's causation testimony and further moved for summary judgment. In support of their motion to exclude Dr. Wang's causation testimony, the defendants argued that the doctor had not done any research on the plaintiff's condition and that the studies he relied on did not support his conclusions. Additionally, Dr. Wang admitted that he was not an expert in rheumatology, toxicology, or occupational medicine. The defendant further argued that without Dr. Wang's opinion, the plaintiff failed to raise a triable issue as to causation, warranting summary judgment for the defendants.

The court agreed that Dr. Wang was unqualified to render a causation opinion and therefore his testimony was inadmissible. Accordingly, the court ruled that, because the plaintiff could not establish that his exposure to the hazardous substances caused the plaintiff's autoimmune disease, the defendants were entitled to summary judgment and dismissed the plaintiff's case.

For more information, please contact Anthony Bracco, David Beckman, Margaret Kolb, Dennis Neier, or Raymond Dragon of Anchin's Litigation, Forensic and Valuation Services Group at 212.840.3456.

¹ Rizzo v. Applied Materials, Inc., 6:15-CV-557 (Sept. 11)



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