

National Lawyers Guild

Labor & Employment Committee

April 12, 2015

Assembly Member Mark Stone, Chair
Assembly Judiciary Committee
1020 N Street Room 104
Sacramento, CA 95814

via fax (916) 319-2188

RE: AB 597 (Cooley) - OPPOSE

Dear Assembly Member Stone:

On behalf of the National Lawyers Guild Labor & Employment Committee [L&EC], this letter is to express our strong opposition to Assembly Bill 597.

Since 1937 the National Lawyers Guild has provided legal support to movements for social change, principally on a volunteer basis. The Labor & Employment Committee focuses on struggles for economic and social justice. In the 1930s the Guild focused on workers' rights supporting New Deal legislation to assist working people and the unemployed; in the 1950s the Guild defended labor leaders and others attacked for their progressive political views. Then and now, the Guild L&EC actively supports progressive labor and employment law struggles. The L&EC is comprised of close to a thousand labor and employment attorneys across the country. The L&EC is committed to protecting workers and improving the legal conditions that will ensure safety in the workplace.

AB 597 adds numerous new procedures to the Code of Civil Procedure for cases involving personal injury caused by asbestos. It is designed to force asbestos victims to jump through expensive and time-consuming legal hoops before they can move forward with a state court case. The bill will dictate the victim's legal strategy and, among other things, require victims to research and provide to the wrongdoers all information regarding claims that might be made with every possible trust – there are over 60 asbestos trust funds – before victims may proceed with their own case. The victim must submit statements under penalty of perjury verifying s/he has looked into each trust for a potential claim – claims that pay just pennies on the dollar. Searching for this information – information the wrongdoers already have – keeps the victim from preparing his/her own court case where fair compensation is decided by a jury. And should the victim err in any detail, those who poisoned that victim can postpone the victim's state court case.

Justice delayed is justice denied. For asbestos victims, should AB 597 become law, in all likelihood those most ill will die before their case is decided. Victims of mesothelioma, a disease caused only by asbestos, commonly survive less than a year or so after diagnosis.

In practical terms, **should the victim die, his/her family will be denied fair compensation because in California, unlike many other jurisdictions, when the plaintiff dies, there is NO RECOVERY for pain and suffering.** Because most asbestos victims are older – it often takes 20 - 40 years before the disease appears – there is often little in the way of economic loss, thus pain and suffering for the horrible death experienced by these victims is the bulk of the compensation awarded.

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As well, AB 597 creates a financial windfall for and avoids full accountability by the bad actors who injured the victim. Product manufacturers, premises owners and others who are defendants, knew since the 1930's about the dangers of asbestos, but failed to warn or provide protection from this deadly toxin.

AB 597 is a solution in search of a problem.

This bill is not about transparency. Proponents argue AB 597 is needed for transparency. **But everything reasonably sought in AB 597 is already available under California's liberal discovery laws.**

There is no double dipping. Proponents also argue AB 597 will address double dipping. In fact, there is no double dipping by victims poisoned by asbestos who bring cases against defendants in state court and also file claims with asbestos trusts. This is because California law already reduces a plaintiff's economic damages by amounts received from an asbestos trust, and California law permits defendants who have trusts to be named on the verdict form when evidence of their liability is established so that a jury may assign them a proportion of the overall verdict. And even if a proportional amount of the verdict is assigned to the asbestos defendant who has a trust, the trust doesn't pay the full proportion the jury assigned because the trust pays only pennies on the dollar awarded by the jury. Further, asbestos victims can only collect the specific share of a wrongdoer's non-economic damages (damages for pain and suffering, etc.) after verdict. Thus it is rare that the victim ever collects the full amount the jury awarded.

AB 597 is modeled on an American Legislative Exchange Council (ALEC) design. The bill's real purpose – and the purpose of ALEC – is to protect the entities that it represents by reducing those entity's liability in asbestos cases. ALEC is the corporate-funded organization of conservative state legislators and private sector representatives that advances free-market enterprise, limited government, and federalism. ALEC focuses on stripping consumers and workers of their rights in order to maximize profits for its corporate members. ALEC promotes, among other things, anti-labor measures such as the so-called right to work and laws to strip local government of the power to provide living wages, prevailing wages, paid sick leave, etc., which a locality deems needed to support a vibrant community. ALEC is anti-labor and anti-consumer.

And AB 597 is an anti-worker bill, caring nothing for the victims of asbestos who die a horrible death, and focusing only on the corporate bottom line of those who poisoned the victims.

Please OPPOSE this bill when it comes before the Assembly Judiciary Committee.

Sincerely,



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