

Pulling Back the Curtain:

Are Those Independent or Exclusive Organizations Really Independent or Exclusive?

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Table of Contents

I. Introduction	465
II. Medical/Scientific Organizations.....	465
A. The Asbestos Disease Awareness Organization (ADAO).....	465
B. The Mesothelioma Research Foundation of America.....	466
C. The Brigham & Women’s Hospital International Mesothelioma Program.....	466
D. The Collegium Ramazzini.....	467
III. Medical/Scientific Journals	467
A. The Annals of Occupational Hygiene.....	467
IV. Professional Associations	468
A. The Mineralogical Society of America.....	468
B. The National Association of Forensic Economics	468
C. The Eastern Economic Association.....	468
D. The Microscopy Society of America.....	468
V. Conclusion.....	468

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I. Introduction

As asbestos defense lawyers, we are all exposed to various data sources, organizations, focus groups, think tanks, publications and professional associations dealing with the litigation in general. With the internet, we see even more of this. Many of these groups purport to be “independent,” or non-biased. They are wrapped in the trappings of academia or science, and without some digging, no one is the wiser. Appearances can be deceiving, and often are. The same is true with many of the professional associations we see with experts retained by plaintiffs’ attorneys. At first blush, membership bolsters the expert’s credentials. Digging deeper, again, shows that things are not what they seem.

This paper will describe some of the research we have performed on this subject. It will focus on three areas:

- Medical/Scientific Organizations
- Medical/Scientific Journals
- Professional Associations

II. Medical/Scientific Organizations

A. The Asbestos Disease Awareness Organization (ADAO)

This organization is found at www.asbestosdiseaseawareness.org. It was founded by [Linda Reinstein](#) and Doug Larkin in 2004 and is headquartered in [Redondo Beach, California](#). ADAO claims that it is the largest independent 501(c)(3) nonprofit in the U.S. dedicated to preventing asbestos exposure, eliminating asbestos-related diseases, and protecting asbestos victims’ civil rights through education, advocacy, and community initiatives. *Id.* (emphasis supplied). The stated goals of the organization are to educate the public and medical community about asbestos-related diseases and preventing asbestos exposure. It claims to support research that leads to early detection, prevention and a cure. *Id.* Further, the group claims to collaborate with organizations around the world for a global asbestos ban and to raise awareness that asbestos is still legal in the United States.

Commentary from the ADAO includes the following:

“The big asbestos companies knew the danger but they were making billions and left it at that.”

“People, not big polluter industries, ultimately elect members of Congress, but those who voted in support of this bill clearly think it’s politically better to support asbestos companies over any constituent who has or is dying from asbestos-related disease.”

“The Truth: If S.B. 411 is passed, asbestos victims will likely be unable to receive the compensation they rightly deserve from the asbestos companies who unlawfully exposed workers, community members, and families to the carcinogen.”

“Please sign the Asbestos Cancer Victims’ Rights Campaign (ACVRC) Petition to send a message to Congress: the asbestos companies need to face the consequences of their actions.” *Id.*

Far from being “independent” as claimed, the ADAO is actually funded by “sponsors” who are categorized by contribution amounts. Included among those sponsors for 2015 were the following:

Platinum – Motley Rice LLC, Simmons Hanly Conroy

Gold – Simon Greenstone Panatier Bartlett

Silver – Early, Lucarelli, Sweeney and Meisenkothen

B. The Mesothelioma Research Foundation of America

This group is found at www.mesorfa.org. Its stated mission is simple and straightforward – to “fund research that will lead to the quickest cure for mesothelioma.” *Id.* Despite that limited stated purpose, the foundation’s commentary includes the following:

“If you have been diagnosed with asbestosis, lung cancer or Mesothelioma you should contact a lawyer at once to learn of your rights to file a legal claim for damages. A lawyer will make sure you follow the necessary steps and make assurances that the statute of limitations does not expire.” *Id.*

Not surprisingly, this “research foundation” is also sponsored. Sponsors are listed on the foundation’s “Wall of Honor.” Included are:

Silver Level (\$500,000) – Bob Arns, Law Firm of Bob Arns

Bronze Level (\$100,000) – Brayton Purcell, LLP

That these organizations contain misleading mission statements is, of course, troubling. Also of concern is the way that they are presented on internet websites. For example, when one visits www.mesothelioma.com, the ADAO is grouped together with genuinely independent organizations such as the National Cancer Institute and the American Cancer Society. *Id.*

C. The Brigham & Women’s Hospital International Mesothelioma Program

This program was once described on the Brigham and Women’s Hospital website, www.brighamandwomens.org. It is significant in that it also appears in a published epidemiological study – Cora R. Roelofs, ScD, Gabriela J. Kernan, MS, Letitia K. Davis, ScD, Richard W. Clapp, D/Sc, Phillip R. Hunt, PhD, *Mesothelioma and Employment in Massachusetts: Analysis of Cancer Registry Data 1988-3003*, *Am. Journal of Industrial Medicine* 56:985-992 (2013). Known as the Roelofs study, this work is repeatedly cited by plaintiffs as a peer-reviewed, published epidemiological study that, contrary to nearly all others, does find an increased risk for mesothelioma among motor vehicle mechanics. The Brigham and Women’s Hospital International Mesothelioma Program was the contract grant sponsor of the study. *Id.* at 985.

As of mid-December, 2014, the program could be found on the hospital’s website. On a web page entitled IMP Philanthropy, sponsors were listed and categorized according to contribution amounts:

Leadership Council (\$3 Million Commitment)

Barron & Budd, PC

Motley Rice LLC

The Ferraro Law Firm

Kelley & Ferraro LLP

SimmonsCooper LLC

Today, one can no longer find information about the Brigham & Women's Hospital International Mesothelioma Program. A search on the hospital's website results in a notation "404 Error – Page Not Found." www.brighamandwomens.org. The program was fully described on the hospital's website before the December 2014 trial in the case of *Estate of Lewis M. Nash, Mary Nash as Executrix v. A.W. Chesterton Company, Inc., et. al*, Supreme Court of the State of New York, County of Onondaga, Index No.: 2012-719. At that trial, the program's contract sponsor status (and the identities of the sponsoring law firms) for the Roelofs study were disclosed. References to the program were removed from the hospital website sometime after the *Nash* trial concluded.

D. The Collegium Ramazzini

This organization is made up of international scientists and medical professionals. Its headquarters are located in Italy and it is self-described as an "independent, international academy." www.collegium-ramazzini.org. The organization was also described in a 2001 commentary calling for an international ban on asbestos:

"The Collegium receives no support from government, industry, labour unions, trial lawyers or other groups with a vested interest in the outcomes of the decisions of the Collegium." Landrigan, P. J. and Soffritti, M. (2005), *Collegium Ramazzini call for an international ban on asbestos*. *Am. J. Ind. Med.*, 47: 471–474. (emphasis supplied).

Perhaps that was true as of 2001, but it was not always the case. In 1991, a plaintiff's executive committee (made up entirely of trial lawyers) in the School Asbestos Litigation case provided \$50,000.00 (from the settlement fund) to the late Irwin Selikoff, a founder of the Collegium, to pay, in part, for a conference on the dangers of asbestos (the "Third Wave Conference") and attended by 15 U.S. judges, several of whom were then presiding over asbestos cases. *In re School Asbestos Litigation*, 977 F.2d 764 (3rd Cir. 1992) at 779-780. An additional \$22,500.00 was contributed by private donors, including donations from members of the plaintiffs' executive committee. *Kelly JM, Memorandum of the United States District Court of Pennsylvania*. Master File No.: 83-0268, June 17, 1991 at 1-9. According to Dr. Selikoff's proposal, the conference was to be conducted under the auspices of the nonprofit Collegium. Dr. Selikoff invited the presiding judge (Judge Kelly), on Collegium Ramazzini stationary, to attend the conference. The invitation mentioned neither the plaintiff's role in the conference nor the court's earlier approval of the funding for the conference. Judge Kelly's registration fee was waived by the Collegium Ramazzini and it paid for his hotel accommodations. *Id.*

III. Medical/Scientific Journals

A. The Annals of Occupational Hygiene

This is a professional journal published by the Oxford University Press. It is described as one of the world's leading research journals in the field of recognizing, quantifying, removing, or controlling hazards and risks to health from work. www.annhyg.oxfordjournals.org. While seemingly a scientific journal, it has published articles written by non-scientists. For instance, in 2010 Chris Meisenkothen of Early, Lucarelli, Sweeney and Meisenkothen co-authored a series of articles with Dr. Murray Finkelstein. *Malignant Mesothelioma Among Employees of a Connecticut Factory that Manufactured Friction Materials Using Chrysotile Asbestos*, *Ann. Occup. Hyg.*, Vol. 54, No. 6, pp. 692–696, 2010. Mr. Meisenkothen and Dr. Finkelstein did disclose their professions. Nonetheless, whether plaintiffs' attorneys should be published in a journal that is self-described as "one of the world's top research journals on hazards and risks to health resulting from work" is debatable.

IV. Professional Associations

A. The Mineralogical Society of America

This is an organization that appears on plaintiffs' expert resumes. Sean Fitzgerald, for example, is a mineralogist called by plaintiffs' attorneys. He lists membership in the society in resumes and in affidavits supporting his testimonial expertise. The Mineralogical Society of America (MSA) was "founded in 1919 for the advancement of mineralogy, crystallography, geochemistry, petrology, and promotion of their uses in other sciences, industry, and the arts." www.minascam.org. There are no qualifications at all for membership. "Membership in the Society is open to any person interested in mineralogy and related sciences regardless of residence, citizenship or age. *Id.*

B. The National Association of Forensic Economics

Another group that finds itself on plaintiff's expert resumes, this organization is found at www.nafe.net. Kristin Kucsma is an economist who testifies for plaintiffs in asbestos cases. She lists as one of her qualifications membership in this professional association. To qualify for membership, one must only pledge to adhere to a statement of ethics and pay a fee. *Id.*

C. The Eastern Economic Association

Like the National Association of Forensic Economics, Ms. Kucsma lists membership in this group on her resume. Part of the Quinnipiac University College of Arts and Sciences, The Eastern Economic Association is a not-for-profit corporation whose object is to promote educational and scholarly exchange on economic affairs which encourages the freedom of research and discussion. www.quinnipiac.edu/eea/. Membership is open to any person interested in the theory, principles, and problems of economics and related disciplines. *Id.*

D. The Microscopy Society of America

Dr. Steven Compton is a materials scientist who has taken over the testifying function of MAS, the company founded by Dr. James Millette. Dr. Compton lists under the professional affiliations section of his resume membership in the Microscopy Society of America (MSA). MSA is devoted to promoting and advancing techniques and applications of microscopy and microanalysis in all relevant scientific disciplines. www.microscopy.org. Qualifications for membership are that the applicant go online and pay a \$65.00 fee.

V. Conclusion

The plaintiffs' asbestos bar is highly skilled, not only at litigation, but at supporting and cultivating a vast support base outside of the actual cases. It is our job to understand which entities are genuine, and which are not. Development of this knowledge will assist us in presenting to the juries that hear our cases actual science and real qualifications, as opposed to propaganda and puffery. The examples described above cannot be the whole story. There must be more, and I urge you to continue to look for them.

Good luck.