

\$80 million settlement reached in Jackson County Courthouse asbestos case



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An \$80 million settlement has been reached in a class-action lawsuit brought by two former Jackson County employees exposed to asbestos during renovation of the Jackson County Courthouse three decades ago.

The settlement includes up to \$25 million in attorney's fees and costs to litigate the case. The rest will go into a medical monitoring fund, thought to be the largest ever established in a Missouri asbestos case, that will cover the costs of diagnostic tests for those exposed for the next 30 years.

Jackson County and Kansas City-based U.S. Engineering, the firm responsible for asbestos removal during the renovation, agreed to settle the case rather than go to trial, which was set to begin this week. No county tax dollars are funding the settlement.

A judge is expected to finalize the agreement the week after Christmas, once all details have been worked out. Plaintiffs and potential class-action members will be notified by mail.

Some 7,500 people may be eligible for the medical screenings. They include people who worked at the courthouse, as well as jurors, attorneys and jail inmates.

They are split into two groups. First, those who think they were exposed to the cancer-causing substance during the asbestos removal from 1983 to 1985 and can prove they were in the downtown courthouse for at least 80 hours during any of those years. They will be eligible for thorough annual medical exams, including chest X-rays and blood screening.

The second group, those who were in the courthouse for 80 hours in any one year after the work was done, from 1986 to 2007, will get free screening every five years.

In a statement issued Wednesday, Jackson County thanked U.S. Engineering for "stepping up to resolve this matter."

A March 2015 Star story outlined the case, including a description of working conditions during the 1980s renovation project.

Plaintiff Jeanne Morgan, who worked in the courthouse, testified at a 2014 hearing about dust and grit coating nearly everything in her fifth-floor office. It blew out of the air vents after workers sawed through old heating pipes insulated with asbestos. The workers tracked the dust through the building as they hauled the pieces of pipe down the freight elevator.

They took no precautions, witnesses would later testify. No masks, no gloves, no warning signs.

"The particles would be ... all over the papers," Morgan testified at the 2014 hearing. "The dust from their boots and their work shoes was on the stairway and in the hallways."

One of Morgan's friends and co-workers, Nancy Lopez, died in 2010 at age 56 from complications from inhaling the asbestos fibers that she contended were in the dust that swirled around the courthouse during that renovation project.

Asbestos fibers never break down. When inhaled, the fibers burrow deep into human lungs, creating scar tissue and causing tumors to grow. It can take decades for symptoms to show themselves, after which the survival rate is low.

Lopez was diagnosed with mesothelioma in 2009 and died the following year. Her heirs won a \$10.4 million settlement in 2011 from the county and U.S. Engineering Co.

Kansas City lawyer Lou Accurso represented the Lopez family and filed the class-action lawsuit settled this week.

U.S. Engineering and Jackson County contended that there was no proof anyone was harmed by the asbestos removal. But the class-action suit claimed that Morgan, another former courthouse worker named David Elsea and potentially thousands of other people were exposed to asbestos and could develop health problems many years later, as Lopez did.

The suit claimed they should be entitled to free medical testing for the rest of their lives.

The Missouri Supreme Court opened the way for medical monitoring lawsuits in 2007. That ruling allows groups of people exposed to toxic substances to be compensated for chest X-rays and other tests for decades, even if they show no sign of illness.

The idea was that it would be more costly and potentially deadly to wait until a disease like the one that killed Lopez, mesothelioma, presents itself. In most personal injury cases, the person filing suit must first prove he or she has suffered some injury or loss.

U.S. Engineering installed asbestos insulation on valves, fittings, water piping and other parts of the heating, ventilation and air-conditioning system at the courthouse in the 1950s.

Asbestos was the standard at the time. But it was considered toxic when the county again hired U.S. Engineering 30 years later to update the building's mechanical systems. The company replaced much of the old equipment in the process.

According to testimony by one of its former top executives, U.S. Engineering did nothing to keep asbestos fibers from entering the airstream as workers wrenched or cut sections of asbestos-covered pipe.

In a prepared statement Wednesday, the chief executive officer of U.S. Engineering Co. Holdings, Tyler Nottberg, said the company "complied with relevant industry and regulatory safety standards" in effect at the time of the courthouse project.

"Integrity and safety have always been at the heart of our 123-year-old, family-owned business," Nottberg said, "and we will not waiver from our commitment to these fundamental values and the Kansas City community, where we are proudly based."

Asbestos no longer poses a danger at the courthouse, the county said in its news release Wednesday.

Testing in 2010 and since then "confirms that the air quality in the courthouse is safe and meets regulatory guidelines," the statement said.

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