

Ohio judge slaps down Novato's Brayton Purcell

Jennifer Upshaw Marin Independent Journal

Posted:

marinij.com

An Ohio judge has barred the Novato-based law firm Brayton Purcell from an asbestos lawsuit, saying the firm deliberately misled the court.

Brayton Purcell attorney Christopher Andreas had already stepped down from the case against Lorillard Tobacco Co., said San Francisco attorney Mark Abelson, who is representing the law firm and Andreas.

Controversy surrounding Andreas had become a distraction, Abelson said.

An Ohio attorney continued to handle the case brought by the family of Harry Kananian, a World War II veteran who died of mesothelioma.

In a ruling issued Thursday, Judge Harry A. Hanna of the Cuyahoga County Common Pleas Court in Cleveland said Andreas lied about medical testing on Kananian's lung tissue; filed false claims to an asbestos trust regarding Kananian's exposure in a shipyard; lied to the court about his knowledge of amendment of the claim to the trust; and withheld e-mails showing his involvement in amending the claim, according to a report in businessinsurance.com, a division of Crain Communications Inc., which publishes Advertising Age, Crain's Chicago Business and other publications.

Andreas, a junior partner at Brayton Purcell, "chose to weave a seemingly endless web of deceit," the judge wrote in his 19-page order, reported by Forbes.com. "What a shame! He jeopardized his client's case and his own reputation because he wouldn't admit to a little bravado in the heat of the moment."

But Abelson said "the inaccuracy was not stated for the purpose of deceiving anyone - it wasn't an intentional misrepresentation.

"I think Mr. Andreas is a very honest attorney," he said. "He's been practicing law for a number of years. No judge had ever accused him of lying. I think there were some misunderstandings here."

Brayton Purcell, a product liability and personal injury law firm that has won numerous multimillion-dollar asbestos cases, employs 50 attorneys and 220 support staffers.

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Major Asbestos Law Firm Barred from Court over "Double-Dipping"; Old Media Ignores

By *Tom Blumer*

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By [Tom Blumer](#) | January 28, 2007 | 14:28

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On January 9, at [this December 7, 2006 post](#) on asbestos lawsuit double-dipping ("the process by which lawyers file claims at many different bankruptcy trusts on behalf of a single plaintiff"), I received [this comment](#) from Brayton Purcell (#11 if your browser doesn't take you directly to it), the law firm that attempted a fifth dip on behalf of one of their clients, and was caught in the act of doing so by Judge Harry Hanna of the Cuyahoga County (OH) Court of Common Pleas.

The comment is a reprint of the response the law firm sent to the Wall Street Journal in response to [Kimberly Strassel's OpinionJournal.com column](#) in early December on the situation.

The Journal [updated](#) in a Monday, January 22 subscription-only editorial, and the results reported make a mockery of the comment referred to above:

The judicial hammer finally came down last week on the California law firm of Brayton Purcell, one of the giants of the asbestos bar. All the firm had done was file a false claim, lie in court and obstruct discovery. But hey, everyone has a bad day once in a while.

The ruling came from Ohio Judge Harry Hanna of the Cuyahoga County Court of Common Pleas, as he barred Brayton Purcell from practicing in his court. In the process, the judge exposed one of the darker corners of tort abuse: asbestos trusts, or funds set up by bankrupt companies to pay legal claims.

The judge is overseeing a suit brought by Brayton Purcell, which claimed Lorillard Tobacco's cigarettes had caused the late Harry Kananian's mesothelioma. What emerged in court, however, is that Brayton Purcell and other firms had previously filed numerous claims to *other* asbestos trusts claiming that Kananian had developed his asbestos cancer for *different* reasons.

This is called "double dipping," and because trust payouts are confidential the public rarely learns of these abuses. Our Kimberley Strassel exposed the Kananian scam last year on these pages, reporting on court records showing that Brayton Purcell and its lead attorney, Christopher Andreas, had gone to extraordinary lengths to hide these facts.

In his opinion, Judge Hanna found that Brayton Purcell disobeyed court orders and lied to the court about it; that it had filed a false claim to an asbestos trust, because "this fiction, of course, improved chances of recovery from the trust"; that Mr. Andreas had lied to the court about what he knew about the claim forms and when and had encouraged trusts to resist discovery; and that the lead counsel had shown a "shocking" lack of "respect" during his deposition.

"The record before this court indicates that Brayton Purcell institutionally and Christopher Andreas individually have failed to abide by our rules. They have not conducted themselves with dignity. They have not honestly discharged the duties of an attorney in this case. Therefore, they have forfeited their privileges to practice before this court," the judge wrote.

Cuyahoga County has long been a mecca for asbestos lawsuits, and tens of thousands are still pending. Judge Hanna and two of his colleagues are charged with overseeing that docket, which means that Brayton Purcell's banishment is a serious sanction that hurts its pocketbook.

The editorial goes on to hope that the Ohio Bar Association sees fit to take disciplinary action, and that other judges start scrutinizing the documents submitted to them in asbestos-related matters more thoroughly.

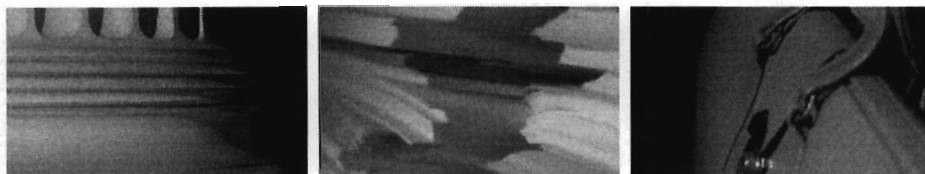
The law firm's comeuppance is a single but significant hard-fought victory over particularly egregious form of legal malpractice, and Judge Hanna deserves the thanks of all remaining legitimate asbestos victims, who may find there is actually money left for them not illegally raided by the likes of Brayton Purcell.

It is also a classic "good guy exposes bad guy's corruption" story that you would ordinarily expect the formerly Mainstream Media to jump on. But as you can see from [this Google News search](#) that located fewer than 20 results (and a few of those are unrelated PR releases), the story has received very little national exposure, and none in the Old Media "newspapers of record," namely the [NY Times](#), [Washington Post](#), or [LA Times](#) (links are to searches on "Brayton Purcell," in quotes, at each paper, all of which contain no results).

So why isn't this news? Could it be that anything that doesn't fit the riding-to-the-rescue template that Old Media seems to favor when covering the plaintiff's bar really isn't worth reporting?

Cross-posted at [BizzyBlog.com](#).

[Wall Street Journal](#)



OHIO COURT DISQUALIFIES PLAINTIFFS' COUNSEL FOR MISCONDUCT

In a decision with potentially far-reaching implications, an Ohio trial court has revoked the privileges of a California personal injury law firm along with its lead trial counsel in a case involving the death of Harry Kananian from mesothelioma in 2000. *Kananian v. Lorillard Tobacco Co.*, No. 442750 (Court of Common Pleas, Cuyahoga County, Ohio, order entered January 18, 2007). The motion to disqualify opposing counsel for fraud, obstruction of discovery, perjury, and other misconduct was filed by Shook, Hardy & Bacon Partners **David Thorne** and **Terry Sexton**.

The decision generated widespread media coverage, including articles in *The Wall Street Journal* and *Forbes*, as the defense bar praised the court for taking on an all-too-common practice whereby plaintiffs recover from bankruptcy trust funds for their injuries and then seek additional damages from more solvent defendants, oftentimes on the basis of inconsistent claims.

"The judicial hammer finally came down last week on the California law firm of Brayton Purcell, one of the giants of the asbestos bar. All the firm had done was file a false claim, lie in court and obstruct discovery. But hey, everyone has a bad day once in a while," reported *The Wall Street Journal* (Jan. 22, 2007).

In a 19-page opinion discussing the reasons for its noteworthy action, the court outlines specific occasions on which Kananian's counsel, Brayton Purcell's Christopher Andreas, lied to the court, obstructed discovery, conducted unauthorized unilateral destructive testing, and submitted false claims with the Johns-Manville Trust. Kananian received compensation for alleged workplace asbestos exposure from the Trust and from a lawsuit filed in California, and then his heirs filed claims against Lorillard in Ohio. The court made a specific finding that Brayton Purcell institutionally and Andreas individually failed to abide by Ohio court rules.

"[Mr. Andreas] apparently never expected that the Court would order him to produce the e-mails that exposed his deceit."

Judge Hanna
Slip op. at 9

"[R]ather than admit that he rashly supported his firm's original claim form even though he was aware of its impending amendment. [plaintiffs' counsel] chose to weave a seemingly endless web of deceit. What a shame! He jeopardized his client's case and his own reputation because he would not admit to a little bravado in the heat of the moment."

Judge Hanna
Slip op. at 17

Products Liability Alert

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In the prior litigation in California and in the claims filed with bankruptcy trusts, Brayton Purcell alleged that Kananian's death was caused by his exposure to asbestos while working in shipyards in California, Japan and the Philippines during World War II. The firm also claimed that Kananian was occupationally exposed to asbestos in factories where he worked both before and after the war.

Andreas tried to tell a different story in Judge Harry Hanna's Cleveland courtroom. Andreas downplayed the ship and shipyard exposures and made arguments in the Ohio court that were inconsistent with the claims made to the California and bankruptcy courts so as to persuade the jury that Lorillard was responsible for Kananian's death. When Judge Hanna ruled that estoppel applied, plaintiffs would not be able to make inconsistent claims to multiple courts and Lorillard would be allowed to show Kananian's earlier claims to the jury, Andreas backtracked and described the prior claims as "rife with outright fabrications" and "the most misleading information" he had seen.

Disturbed by this reversal on claims that had been submitted under penalty of perjury and fully paid nearly six years earlier, the court launched a nine-month inquiry into the law firm's conduct. Several of its lawyers and staff underwent multiple depositions, and Brayton Purcell was forced to produce dozens of internal e-mails among plaintiffs' counsel, many of which repudiated statements Andreas had made in open court.

"The lessons learned from Kananian are far reaching and apply to all types of products liability claims," stated David Thorne. "Defendants should aggressively pursue potential misconduct by opposing counsel and use subpoenas and other forms of discovery to establish inconsistent claims made by plaintiffs against other entities for the same injury."

Even if a product manufacturer is not involved in asbestos litigation, the case provides important lessons, including:

- Report all fraudulent conduct directed at clients, courts and bankruptcy trusts;
- Establish waiver of the attorney-client and work product privileges in cases involving misconduct and inconsistent claims;
- Request internal e-mails written by opposing plaintiffs' counsel when warranted;
- Request depositions of opposing plaintiffs' counsel to expose inconsistencies in claims and statements made in open court;
- Take meticulous notes, always send confirming letters and request daily copy from all hearings to uncover inconsistent statements to court and counsel;
- Use subpoenas and discovery to obtain complete information about prior claims made by plaintiffs for the same injuries;

"In a harshly worded opinion... Judge Harry Hanna listed more than a dozen instances where [plaintiffs' attorneys] either lied to the court, intentionally withheld key discovery materials, or distorted the degree of asbestos exposure alleged."
The Wall Street Journal, Jan. 20, 2007.

"In my 45 years of practicing law, I never expected to see lawyers lie like this. It was lies upon lies upon lies." Plain Dealer Reporter, Jan. 25, 2007 (quoting Judge Hanna).

"Defendants should aggressively pursue potential misconduct by opposing counsel and use subpoenas and other forms of discovery to establish inconsistent claims made by plaintiffs against other entities for the same injury."

**Shook,
Hardy &
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Products Liability Alert

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- Establish the admissibility of prior claims made against bankruptcy trusts and other defendants;
- Uncover false and incomplete privilege logs regarding e-discovery;
- Do not let opposing counsel get away with unethical behavior;
- Use judicial and collateral estoppel to prevent inconsistent claims for the same injuries.

Despite detailed findings that Andreas lied to the court, testified falsely under oath at his depositions, obstructed discovery, and destroyed evidence, he appealed the court's decision.

The trial court dismissed the appeal as moot, and Andreas has since filed an application for reconsideration. In his supporting memorandum, dated March 5, 2007, Andreas claims that he has been subject to "an incredible onslaught of negative and, in many instances, terribly inaccurate descriptions" in the press and may face disciplinary prosecution in Ohio and California. According to Andreas, the law in other jurisdictions supports his claim that *pro hac vice* status issues are not mooted when the underlying litigation concludes. Brayton Purcell has filed a separate motion to appeal.

Shook, Hardy & Bacon's Products Liability Division can help you with your defense needs in complex, mass-tort and class action litigation. Please contact **David Thorne** or **Terry Sexton**, (816-474-6550, dthorne@shb.com, tsexton@shb.com), if you would like to discuss this opinion and how our SHB team can meet the needs of your company or client.

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The Hanna Hammer

January 26, 2007 10:48 AM

State Judge Harry Hanna of our neighbor the Buckeye State made national headlines last week for taking a novel, if overdue, stance: Lawyers who lie and scheme in his court will lose the privilege of practicing before it.

Here's hoping the trend spreads across the Ohio River.

Hanna banished the Brayton Purcell law firm, from tony Marin County in Northern California, after "junior partner" Chris Andreas made statements that "were patently false and could only have been designed to deceive this court."

Andreas also wore a t-shirt to a deposition that read "Killer Smokes — Kent Cigarettes — 1952-1956 — Made by Lorillard Tobacco." Nice touch, as Lorillard is the defendant in this case, one of several Brayton Purcell has been trying to finger as it "double-dipped" the asbestos cancer death of client Harry Kananian.

A one-time Kent smoker, Harry was also a one-time laborer, one-time welder and one-time longshoreman. Andreas & Co. tried to pin full blame on all of them, collecting full cash settlements multiple times and puffing up their contingency fees.

Hanna sniffed out what they were up to. He wasn't impressed.

"For an officer of the court to show such lack of respect is shocking," Hanna said.

We wonder how Hanna would digest the antics of Pittsburgh plaintiff's firm Peirce, Rainmond & Couler. Last summer, it showed its respect for Judge Arthur Recht's Ohio County court by allowing — some think enabling — three plaintiffs to file fraudulent asbestos claims against their employer, CSX Transportation.

Rodney Chambers, Ricky May and Danny Jayne each schemed to leverage quick cash settlements from the rail giant.

Chambers used a "diagnosis" from a made-up physician — "Dr. Oscar Frye" — as evidence he got sick inhaling asbestos fibers on the job and deserved a cash settlement. May had an actually sick co-worker — Mr. Jayne — impersonate him for the medical examination. Infamous Bridgeport "radiologist" Ray Harron (who else?) reviewed their identical lung images and deemed them separately worthy. Both got paid — May \$8,000 and Jayne \$7,000 before the scam unraveled.

Most judges simply would have dismissed this case, allowing the deceit to scurry into the Wheeling ether. Judge Recht didn't, and he deserves credit for the fact that we can even recount these regrettable details.

Still, for those without shame, mere public and profes misbehave in the courtroom. Judges need to hit 'em l

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Posted on January 26, 2007 by

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8/19/2006 @ 4:40AM

Double-Dippers

Aided by their lawyers and secrecy oaths, asbestos victims are finding bankruptcy trusts easy pickings.

Amid all the disputed facts swirling around the death of Harry Kananian, one thing is certain: On June 24, 2000 the former Broadview Heights, Ohio resident died of mesothelioma, a cancer almost certainly caused by asbestos.

How Kananian was exposed is a mystery he took to his grave. Was it as a teenager working in dusty factories in Cleveland? Or was it when he slept in the top bunk of a World War II troopship that had asbestos-clad pipes rattling 2 feet above his head? Or was it from smoking Kent cigarettes that were made with asbestos-containing filters for a few years in the early 1950s?

Kananian's lawyers have made all these claims and more in lawsuits they began filing just weeks after his cancer was diagnosed in February 2000. But like a Hollywood movie with continuity issues, his stories don't mesh. Was he a shipyard worker in World War II, as he told the Johns Manville bankruptcy trust? Or was he a U.S. Army rifleman who passed through a San Francisco shipyard on his way to Japan, as he said in a deposition?

Kananian's conflicting stories illustrate a dirty little secret of the asbestos-litigation industry: Even as states crack down on frivolous lawsuits by people with no symptoms at all, trusts established by bankrupt asbestos manufacturers are paying tens of thousands of claims each year based on inflated or downright false stories of how people were exposed to their products.

Most of the trusts are overseen by plaintiff lawyers—lawyers with Dallas plaintiff firm Baron & Budd sit on nine bankruptcy trusts, and New York firm Weitz & Luxenberg are involved in seven. Can they be counted on to weed out double-dipping and false claims?

“This is pervasive; this permeates the entire business,” says Lester Brickman, a professor of legal ethics at Cardozo School of Law in New York, who has exposed questionable practices of plaintiff lawyers in his scholarly articles and served as a paid witness for companies opposing asbestos claims. “Bankruptcy

judges should be ashamed of themselves for, in effect, going along with this fraud.”

With an estimated \$17 billion in assets so far and \$5 billion to \$10 billion more on the way, the trusts represent a huge pool of cash for potential asbestos claimants to tap. There’s nothing wrong with suing more than one company or trust for the same injury (and most sue several trusts). People were often exposed to asbestos at different locations, made by different manufacturers. Who’s to say which exposure caused the injury?

But in the Kananian case and other lawsuits scattered around the country, defendants are uncovering a more troubling trend. One common example: A plaintiff sues manufacturers of asbestos-containing brake pads without disclosing that he has already collected tens or hundreds of thousands of dollars from trusts representing bankrupt producers of construction products on the theory that he was exposed to asbestos on construction sites.

In 2004 a Loudoun County, Va. judge threw out James Dunford’s mesothelioma suit against Ford and other automotive parts makers because Dunford’s lawyers failed to disclose claims they’d made against bankruptcy trusts in other states. In the lawsuit, Dunford said he got sick after working in gas stations for two years in the early 1980s. What he didn’t say was that he’d already collected money from building-products trusts based on his claims of being a construction worker. Medical studies have shown construction workers are far more likely to contract asbestos-related cancer than car mechanics are. Dunford’s lawyers, Weitz & Luxenberg, declined to comment.

Secrecy keeps this game going. Trust payments, like most legal settlements, are considered confidential and generally can’t be used as evidence in subsequent trials. That’s convenient because it allows plaintiffs to hide conflicting versions of how they got sick.

Plaintiff lawyers who set up the trusts and sit on the advisory boards that oversee them have fought efforts to share detailed claims information “because they don’t want the other trusts knowing what exposures they have claimed,” says Robin Carroll, who for eight years was controller of the \$750 million Celotex trust.

In a case that could crack open bankruptcy-trust records for most California defendants, an appeals court in May allowed lawyers for Volkswagen to obtain

settlement records from Buddy Rusk Sr., who sued Volkswagen and 67 other companies for asbestos-related illness in 2003. Rusk, 67, a former machinist and painter who admitted on a 1992 medical exam to drinking a six-pack of beer a day and occasionally using “amphetamine and IV crank,” blamed his shortness of breath on brake pads even though he worked part-time as a car mechanic and started smoking in 1951. The court said details of his filings with trusts are “plainly relevant” to his case.

Rusk’s lawyers are with the prominent Novato, Calif. firm of Brayton Purcell, which also represents Kananian’s heirs. They call the inconsistencies in Kananian’s filings “clerical errors” and say that all the products, including Kent cigarettes, contributed to his cancer. Brayton Purcell, which has won asbestos verdicts of more than \$10 million, takes an assembly-line approach to litigation: Lawyers there once filed 5,000 claims in a single day. They filed a typical volley of lawsuits for Kananian after he was diagnosed, including one against Lorillard Tobacco (a unit of Loews Corp.) that is starting to haunt them.

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Lorillard argues it’s unlikely Kananian got sick from smoking asbestos-tipped Kents, since the company marketed them mostly to women. (A more popular version of the brand, sans asbestos, was launched in the late 1950s.)

In early August Ohio Judge Harry Hanna ordered the release of lawyer e-mails and asbestos-trust filings by Kananian and his lawyers. They don’t look good for the plaintiff.

Kananian’s filing with the Eagle-Picher trust, for example, says, ” as a welder, he was exposed to asbestos insulation around him as he welded pipes together” for a year, even though in another filing he welded for two weeks aboard a ship in the Philippines. In his filing with the UNR trust, he claimed he handled “Unibestos insulation” at the San Francisco Naval Shipyard at a time when he said he was a rifleman who merely passed through the yard to board a troopship.

Brayton Purcell, which objected vociferously to Hanna’s order, tried to blame lawyers at another law firm, Early Ludwick & Sweeney in New Haven, Conn., for any errors. The forms Early Ludwick filed for Kananian “are rife with

outright fabrications,” Brayton Purcell lawyer Christopher Andreas said in a Mar. 22 e-mail to partner Alan Brayton. A filing with the Celotex trust, in which Kananian’s lawyers said he “made and handled tools of asbestos,” was “completely fabricated,” Andreas said in the e-mail to his boss.

Perhaps reflecting the newfound scrutiny bankruptcy trust filings are receiving, Brayton in a Mar. 22 e-mail told Andreas to “immediately brief all personnel that they are not to ‘make up’ information to make a claim qualify.” Guess they don’t make that clear in law school.

Kananian and his heirs won at least \$150,000 from the trusts, according to the e-mails, possibly as much as \$700,000. His lawyers began submitting “amended” forms, which corrected the errors, after Hanna indicated he would let Lorillard see the originals.

Hanna ruled the conflicting claims could be admitted into evidence in the Lorillard case. He gave the lawyers a choice: Either “you give the money back to the bankruptcy court and tell them, ‘Gee, somebody made a mistake here,’” the judge said at a March hearing, or “the jury hears about it.” Early Ludwick partner James Early says his firm has never filed an “intentionally false” document.

Kananian’s death was undoubtedly caused by asbestos, says Lorillard lawyer Terrence Sexton, of the Kansas City firm of Shook, Hardy & Bacon. “The issue is, whose asbestos caused it? Where did he work? Who’s responsible?”

There is a quick solution for discovering conflicting work histories, which some, like Brickman and Carroll, have proposed: Match up Social Security numbers of claimants across all the trusts. It was just such a matching exercise that uncovered a brewing scandal in Mississippi and Texas, where plaintiff lawyers filed thousands of lawsuits claiming silicosis in workers who had previously sued over asbestosis. Experts say the two diseases almost never occur in the same person.

There are strong financial reasons for keeping the system as it is. The bankruptcy trusts are created by plaintiff lawyers, who negotiate prepackaged bankruptcy deals that relieve companies of their asbestos liabilities while creating a streamlined process for paying claims. The Manville trust has paid out \$3.3 billion to settle 660,000 claims so far and still has \$1.7 billion in assets to distribute. It got 18,200 new claims last year, up from 14,400 in

2004.

The trusts can be lucrative for the people running them, too. Claims-processing firms charge \$5 million a year or more at large trusts. In 2003 a Delaware judge ordered Kenesis Group to disgorge \$2.4 million in fees in part because it outsourced claims-processing work to a firm owned by a sometime paralegal with asbestos plaintiff firm Motley Rice.

Legal fees run to hundreds of thousands of dollars a year at big trusts, while trustees and advisers—many of them plaintiff lawyers—can earn \$60,000 a year plus \$2,000 a day for meetings. No surprise, then, that the bankruptcy trusts have spent millions of dollars lobbying against the Fairness in Asbestos Injury Resolution Act, which would roll all the asbestos trust assets into a single \$140 billion federally administered fund. Their argument is that the law would deprive asbestos claimants of funds and impose unfair medical standards on claims.

Brickman acknowledges the harm manufacturers did to hundreds of thousands of workers. Plaintiff lawyers “did a good job of running down the conspiracy,” he says. “But then the genie escaped from the bottle and they launched into an entrepreneurial scheme.”

BUSINESS INSURANCE.

Law firm barred from Ohio court in asbestos case

Posted On: Jan. 19, 2007 1:49 PM CST

Dave Lenckus

ADVERTISEMENT

CLEVELAND--An Ohio judge presiding over an asbestos bodily harm case has barred the plaintiff's former law firm from practicing again before the court, saying an attorney with the firm lied to the court, submitted false asbestos claims and broke other court rules.

Judge Harry A. Hanna of the Cuyahoga County Common Pleas Court in Cleveland issued his ruling Jan. 18 against Brayton Purcell L.L.P. The judge cited numerous violations committed by Novato, Calif.-based attorney Christopher Andreas.

Mr. Andreas, who is listed as a junior partner on the law firm's Web site, had represented the estate of Jack

Kananian against cigarette maker Lorillard Tobacco Co. of Greensboro, N.C.

In his ruling, Judge Hanna listed 13 infractions committed by Mr. Andreas. The judge also found that Mr. Andreas committed other violations that "paled" in comparison to those the judge detailed. Among the noted violations, the judge said Mr. Andreas:

- Lied to the court about destructive medical testing performed on Mr. Kananian's lung tissue;
- Submitted false claims to an asbestos trust regarding Mr. Kananian's exposure to asbestos in a shipyard;
- Lied to the court about his knowledge of his firm's amendment of the claim to the asbestos trust;
- And withheld e-mails the court requested he produce to show his involvement in amending the claim against the trust.

"The record before this court indicates that Brayton Purcell institutionally and Christopher Andreas individually have failed to abide by our rules. They have not conducted themselves with dignity. They have not honestly discharged the duties of an attorney in this case. Therefore, they have forfeited their privileges to practice before this court," Judge Hanna wrote.

Judge Hanna, however, rejected Lorillard's motion to dismiss the case, ruling that the plaintiffs had not violated any court rules.

Mr. Andreas as well as the estate's current attorney and Lorillard's attorney did not return calls.



Judge bans asbestos attorney

Tuesday, February 20, 2007

The law firm asked the judge to reconsider the ban, and a hearing was scheduled for today.

CLEVELAND (AP) — A low-key judge fed up with disrespectful behavior and alleged lies by an attorney created a stir with a courtroom ban on the lawyer from a nationally known San Francisco-area law firm that handles asbestos-related lawsuits coast-to-coast.

The case before Judge Harry Hanna and his response gave a rare look into the workings of a legal system where \$400-an-hour attorneys, many traveling cross-country on a case-by-case basis, argue the hazards of asbestos and who's to blame for debilitating lung ailments that can result from exposure to the insulating material.

"They have not conducted themselves with dignity. They have not honestly discharged the duties of an attorney in this case," Hanna said in a scathing Jan. 18 ruling banning Christopher Andreas and his law firm from his court. He accused the attorney of trying to withhold evidence and lying about the handling of claims.

Hearing today

Andreas' Brayton Purcell law firm of Novato, Calif., asked the judge to reconsider the ban, and a hearing was scheduled for today.

Andreas and the law firm won't have any comment on the matter, attorney Jerome Fishkin said in e-mail responses to an Associated Press interview request. Fishkin, based in Walnut Creek, Calif., advises attorneys on ethics issues.

Hanna's ruling thrust him into the legal limelight and was celebrated by those who blame trial lawyers for unwarranted lawsuits and increased consumer product costs. The editorial page of The Wall Street Journal, often critical of lawsuit abuses, said Hanna's ruling set an example for judges to take a hard line against litigation fraud.

The Ohio Supreme Court has given local judges wide discretion in deciding whether to admit out-of-state attorneys for trial work and whether to revoke that permission for conduct "which could taint or diminish the integrity of future proceedings."

Hanna, who handles more than 17,000 asbestos cases, said his ruling wouldn't disqualify the law firm from working in other courts.

Asbestos, which can cause cancer and other medical problems if inhaled, was widely used in construction and for other purposes until the mid-1970s. A 2005 study by the Rand Corp. think tank released said about 730,000 people had sued over asbestos exposure through 2002, with many more lawsuits anticipated as medical complications manifest themselves.

The public scolding of Andreas and the Brayton Purcell firm, which specializes in product liability cases and has worked in all 50 states, emerged from a lingering asbestos liability lawsuit filed on behalf of Jack Kananian of suburban Broadview Heights. He died at 73 of a form of lung cancer in 2000 and his wife and estate have pressed the matter since then.

At issue was whether Kananian's mesothelioma lung disease was caused by exposure to asbestos in the filters of Kent cigarettes.

Hanna, 66, works with two other judges handling 37,000 asbestos lawsuits in Cuyahoga County Common Pleas Court in Cleveland, a consolidated docket similar to those elsewhere amid vast numbers of asbestos lawsuits. Hanna banned Andreas and Brayton Purcell from his court by granting a motion made by the attorneys for the defendant, Greensboro, N.C.-based Lorillard Tobacco Co.

Warning

The ban should be a warning to attorneys to behave and obey court rules like sharing evidence before a trial and telling the truth, according to Susan Becker, a Cleveland State University law professor who is writing a book on attorney ethics.

"I would hope a lot of attorneys are taking this to heart," she said. Hanna's ruling "could have a good effect in terms of shaking out some of the attorneys who handle these cases whose ethics we might question."

Hanna, in a 19-page ruling, said Andreas had lied about Kananian's medical pathology tests and legal filings, urged one party to withhold evidence, misrepresented his role in handling claim forms and was "disrespectful, obstructive and untruthful" at a June 28, 2006, deposition. The judge said e-mails underscored a misrepresentation by Andreas about his awareness of a pending change in an asbestos claim.

While the issue at hand was obscure, Andreas "chose to weave a seemingly endless web of deceit. What a shame!," the judge wrote.

Andreas showed up at the deposition, which are often done in a formal conference room setting, dressed in a T-shirt that read, "Killer smokes — Kent Cigarettes — 1952-1956 — made by Lorillard Tobacco."

"For an officer of the court to show such lack of respect is shocking," Hanna said.

Hanna expressed surprise at the buzz in the legal community, including blogs, and said he was simply signing off on good legal work by the Lorillard attorneys who detailed problems with Andreas' work in their legal motion to kick him out.

"I was embarrassed by all the publicity. I certainly didn't expect it," Hanna said in an interview in his courthouse office.

He said attorneys who come before him typically are highly professional, often making his work harder because their legal arguments are done so well.

"They know what to fight about and they know when to fight," he said.

Hanna said the Kananian family and a second family attorney were blameless in any legal misbehavior and said

ousting Andreas wouldn't affect the future of the case.