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The Recorder

July 13, 1999, Tuesday

SECTION: NEWS; PG. 3

HEADLINE: DID AMOCO'S EFFORTS TO HELP ILL EMPLOYEES BACKFIRE?

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DATELINE: CHICAGO

BODY:

It appears that BP Amoco's widely acclaimed but risky efforts to find out why employees have been stricken with deadly brain cancer since 1986 is coming back to haunt the company.

BP Amoco began its investigation before any employees brought suit against the company, but now some workers who have contracted benign brain tumors or extra-cranial cancers have become so angry with how the company has handled the matter -- including Amoco's failure to share all the evidence it has uncovered with sick employees -- that they have taken matters into their own hands.

Since last summer, one current and 19 former employees who contracted cancer or tumors after working at the Amoco Research Center here, or the former employees' survivors, have sued BP Amoco in circuit court in Chicago. BP Amoco, the London-based oil giant that was created after British Petroleum acquired Chicago-based Amoco, is expected to be the target of more suits in the near future.

The first such individual to sue, in August, was Irwin Samuel Ginsburg, a retired Amoco human resources supervisor, who found out in the early 1980s that he had a life-threatening thyroid cancer. An operation saved his life, but Ginsburg, now 61, says that he had no choice but to sue because, despite Amoco's publicized promises to "do the right thing," he couldn't get access to most of the scientific data that Amoco had amassed and that might shed light on how to extend his life.

"I used to be one of Amoco's greatest cheerleaders," says Ginsburg, who worked 27 years for the company before retiring in 1996. "I finally turned to a lawyer for help because I lost confidence in the way it was handling this mess."

Ginsburg's lawyer, G. Grant Dixon III of Chicago's Corboy & Demetrio, states what he believes are Amoco's true motives: Amoco has been pursuing "a calculated strategy of legal hardball combined with public relations soft soap," which, he argues, "is designed more to limit Amoco's legal liability than to provide answers."

Vicki Kastory, a company spokeswoman, insists, "This has always been about helping our friends and co-workers," and points to the "millions" that the company has spent investigating the health problems.

THE HISTORY

It wasn't until 1989, according to court documents filed by Amoco, that the company learned that three of its workers at its 178-acre campus in Naperville, Ill., 40 miles west of Chicago, were diagnosed with gliomas -- malignant tumors affecting the cells that support and insulate the nerves of the brain. All had worked on the third floor of Building 503, which is connected to several other buildings.

Amoco, which not only produces oil but also develops new chemical compounds for use in manufacturing, has historically done far-ranging chemical experiments at its Naperville facility. Many of the experiments, plaintiffs' lawyers claim, have involved toxic substances. During the 1970s, the plaintiffs contend, employees on the third floor of Building 503 worked with heavy metal catalysts and polymers, which in some circumstances can be highly toxic.

But numerous medical experts brought in by Amoco, including those from the Mayo Clinic, found no causal link between the sick employees and the workplace.

In 1996, a fourth former Amoco employee was diagnosed with glioma -- and he, too, had worked in Building 503. According to court papers, another team of experts funded by Amoco, from the University of Alabama and Johns Hopkins University, were called in to determine the cause of the illnesses.

Since then, three other employees have been diagnosed as having similar brain cancers, for a total of seven out of the 7,000 who have worked at the Naperville campus since its 1970 opening. Five of those seven are now dead. At least a dozen more individuals have been identified by these researchers as having been diagnosed with benign brain tumors. Still more employees, including Ginsburg, have been reported as having other forms of cancer. Unlike Ginsburg, who worked in Building 503 for a couple of years, however, many of those suffering from tumors or extra-cranial cancers have had no known connection with that building.

Says Kastory, "We have done everything possible to share this information."

Defense lawyers interviewed agree that Amoco has taken an uncommonly high road in this high-stakes matter, in which Amoco's potential liability, according to plaintiffs' lawyers, could be

in the hundreds of millions of dollars.

Even plaintiffs' attorneys at law firms handling the case concede that Amoco, in April 1998, took an extraordinary step in voluntarily releasing the findings of a preliminary brain cancer "incidence" study. That document candidly established that the proportion of people who, after having worked at Amoco's Naperville research campus, contracted deadly brain cancer was eight times the national norm.

But Dixon, who has been at odds with his fellow plaintiffs' lawyers over strategy, claims that the ballyhooed report is being used by what he calls Amoco's "public relations machine" to plant the idea that the company's potential legal liability be limited to the several isolated malignant brain cancer cases.

Contrary to "Amoco's propaganda," Dixon says, Amoco's researchers have focused mostly on victims of the rare brain cancer who will have the easiest cases to prove in court and have paid little attention to those with forms of cancer the causes of which are harder to identify. Consider, he says, a May 19 form letter sent by Amoco researchers to Ginsburg and the other former workers with the less rare cancers, with the researchers only now asking for their medical records.

But Amoco's Kastory says, "The brain cancer victims had the most serious health problem, and our researchers focused their attention on those individuals first." She blames a string of delays in announcing additional promised findings on "exacting verification" procedures.

Dixon's response: "We've run out of patience -- and Amoco has run out of credibility." He says that he recently was retained by the estate of another Amoco worker, a project engineer, whose family members say he died of lung cancer and an inoperable brain tumor in 1986. He was never contacted by company researchers, they say.

MOTIVES QUESTIONED

The best proof of Amoco's motives, Dixon contends, is that the company has fought "tooth and nail" repeated requests by sick employees for the scientific evidence that the company has compiled. Dixon says that plaintiffs need access to the material so they can test its validity.

Particularly frustrating, Dixon says, is Amoco's alleged renegeing on its handshake agreement in the spring of 1998 to comply with a broadly worded discovery request that had been filed by Dixon in Cook County Chancery Court (*Ginsburg v. Amoco Oil Co.*, 98 CH 04223). The company defense attorney who allegedly made that deal with Dixon, John V. Smith II, a partner at Chicago's Pretzel & Stouffer, declined to be interviewed. Other Amoco defense attorneys also declined to comment, including the company's managing claims attorney, Roland Filippi, and outside counsel Richard Godfrey, of Chicago's Kirkland & Ellis.

Kastory says that the information requested by Dixon is "confidential" for now.

Unconsoled, Dixon abandoned his chancery court action and in August filed negligence suits on behalf of Ginsburg and five others with cancers other than gliomas. More than a dozen additional suits filed by other law firms soon followed. And, in April, Dixon obtained a court order consolidating the suddenly expanding litigation in Judge Judith Cohen's courtroom for discovery purposes (Ginsburg v. Amoco Oil Co., No. 98 L 12383).

Most of these suits rely on the sheer weight of the number of Amoco workers who have worked at the Naperville campus and have developed tumors or cancers. The plaintiffs' attorneys also invariably point to an inadequate ventilation system and to lax safety practices. There have also been references to radioactive materials "lost" in 1991. Kastory doesn't deny those charges, but she says they are grossly exaggerated.

Kastory denies any company wrongdoing and says Amoco is not yet willing to admit to a connection between anything it did and any of the identified cancers which, except for gliomas, are not "statistically significant" when compared with national averages. As a result, she says, Amoco has not decided whether to compensate any of its sick employees beyond generous medical and out-of-pocket assistance. While Amoco lawyers decline to talk and have yet to file answers in any of the suits -- they've either filed motions to dismiss or asked for extensions until the additional scientific studies are completed -- defense experts agree that Amoco should be commended by the plaintiffs, not criticized.

Jennifer Nijman, a partner at Chicago's Winston & Strawn who is not involved in the litigation, says that "most companies would have done nothing, made the plaintiffs file their lawsuits and spend huge amounts of money gathering evidence and, then, went out and spent its millions on its own defense, anyway."

Of course, besides worker disaffection, there was always an obvious risk in Amoco's aggressiveness, observes Jennifer Johnson, a partner at Chicago's Tressler, Soderstrom, Maloney & Priess who represents an Amoco co-defendant in one of the suits. "Amoco will get stuck with the bad as well as the good scientific news it gets," she says.

PLAINTIFFS DIVIDED

Meanwhile, some plaintiffs' lawyers expressed concern about the very public criticism of Amoco by Dixon and his clients.

Marios Karayannis, a partner at Elgin, Ill.'s Brady & Jensen whose father was one of the Amoco employees stricken with brain cancer, says, "Some of my clients who have brain cancer have been taken aback by the fact that some" Amoco workers without brain cancer have filed suit and threatened to muddy the legal issues for them.

Some other plaintiffs' lawyers do not publicly disagree with Dixon's charges against Amoco, but they privately express discomfort at the timing of the charges.

Dixon insists that he had to go public with his worst fears now. "How are we going to convince any Cook County jury --repeatedly being filled as it has been with this notion of a noble Amoco -- that it is guilty of serious wrongdoing for more than a decade?" he asks.

LANGUAGE: ENGLISH

LOAD-DATE: July 13, 1999