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California Asbestos Law Update

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San Francisco Court Closures Likely To Affect Asbestos Cases

Due to drastic state budget cuts, the San Francisco Superior Court ("S.F. Superior") has announced that on **September 30, 2011**, it will cut 40% of its workforce (200 employees) and close 25 courtrooms "indefinitely," including 12 Civil Trial Departments, 2 Complex Litigation Departments, one Law & Motion/Discovery Department, and one Case Management Department. Preference cases and cases that are nearing the five-year "prosecute or be dismissed" deadline will still proceed to trial as usual. However, all other civil cases will face unprecedented delays in being assigned to a trial department.

In spite of these far-reaching cuts, and due to alternate funding, the Honorable Harold E. Kahn will remain the Presiding Judge for Asbestos Case Management, and Pang V. Ly, Esq. will remain the Asbestos Litigation Settlement Manager for S.F. Superior. They face significant challenges in providing access to trial departments as only three civil trial departments will remain after September 30th.

There are roughly 850 asbestos cases pending in S.F. Superior. In 2011 to date, non-preference cases were typically assigned to a trial department within 4 – 5 weeks from trial call (the date on which the parties in an asbestos case appear before Judge Kahn to determine the parties' readiness for trial). After September 30th, non-preference cases may not be assigned to a trial department for as many as 6 months after trial call.

We can expect that the limited access to trial judges will hinder the Court's recent effectiveness in leveraging global case settlements at or near the time of the initial trial date. As a result, we anticipate additional settlement conferences and larger consolidation of cases as the Court tries to manage the heavy asbestos caseload.

Given the dismantling of S.F. Superior, we may see plaintiffs crossing the bay and filing new lawsuits in nearby Alameda Superior Court instead. Alameda has 18 civil trial departments and uses a single assignment system. As a result, non-preference and preference cases are starting trials close to their trial dates. There are approximately 350 asbestos cases pending in Alameda County.

It is unclear whether filings in Los Angeles Superior Court ("L.A. Superior") will increase. A major over-haul in the way L.A. Superior manages its asbestos litigation is in the works. L.A. Superior recently filed a petition (which will be heard August 15th) seeking coordination of all asbestos cases in Los Angeles, Orange, and San Diego counties for pre-trial purposes and potentially trial in front of a single judicial officer in Los Angeles County. Currently, there are approximately 270 asbestos cases pending in Los Angeles.

As dire as the situation appears now in S.F. Superior Court, it has the potential to get even worse. S.F. Superior Presiding Judge Katherine Feinstein has stated that if S.F. Superior does not receive additional funds from the state in January 2012, the Court may be forced to enact additional cost-saving measures.

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