

## **“An Analysis of Toxic Tort Trends”**

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**Host:** It is impossible to pick up a newspaper without reading about the recent wave of tort suits—*asbestos*, *mold*, *tobacco*, even *junk food*—and the scope of these claims keeps getting broader and broader. Our next guest has some ideas about stemming the tide. He is *Kurtis B. Reeg*, and he is a partner at the law firm of *Leritz, Plunkert, & Bruning* in *St. Louis, Missouri*. He is a specialist in *environmental law*, *toxic torts*, and *products liability*. Thanks for joining us, *Kurt*.

**Kurtis B. Reeg:** You're welcome. Glad to be here.

**H:** Now, it seems that the world has just gone tort-mad. What is going on here?

**KBR:** Well, it feels that way. I think the American public doesn't feel too comfortable about corporate America these days. You read about *Enron* and *WorldCom*—everyone wants to take it out on business, and business, for a long time, has been handling and reacting to that the same old way. It's fight everything, we didn't do anything wrong. I think right now, American business can do something about that.

**H:** I know you're a big proponent of partnering between corporate America, government, and the public. Let's talk about that.

**KBR:** Well, I think corporate America has a unique opportunity right now to partner with government and the public to change its image. The time is right for that. I think American business should reach out to government and be proactive with it in the fields of *environmental toxic tort issues*, because business can help develop and strengthen the quality of life of all Americans, win the support of the entities that govern them, and win the support of the stockholders that buy their products and buy their stock. I think if business steps out of the traditional mold and takes a fresh look at ways to win the hearts of government and the consuming public, they'd end up winning the support of both and helping their bottom line at the same time.

**H:** I'd like to address a couple of specific tort trends. Let's begin with the *asbestos* debacle. What's happening? What's the lesson to be learned here?

**KBR:** Well, *asbestos* has been a terrible problem for government, business, and the public for decades. For the last forty years, it's been litigation after trial after litigation of big verdict against business. And now, there's been seventy companies that have gone bankrupt that were associated with the *asbestos construction trades* and business, and I think that American corporations can learn a lesson from that.

**H:** Yeah. What is that lesson, do you think?

**KBR:** Well, I think the lesson is that you don't just hide from a problem. Instead of denying it, address it.

**H:** Now, we're seeing new areas of litigation coming up like pressure-treated lumber and electromagnetic fields. Can we learn anything from the past? Are we going to litigate ourselves into oblivion? What's really the moral of the story here?

**KBR:** The electromagnetic field litigation was new, and by using the approach I'm talking about, the electrical and energy industries put that litigation away. There were lawsuits filed by the Plaintiff's Bar and they said that electric current causes everything from brain tumors to cancer. And, instead of just saying no, the industry went out and studied it. They monitored electrical fields, they tested, they studied, they wrote peer-reviewed articles, and basically, the science proved that electromagnetic fields didn't cause any of these maladies that it was accused of. So the litigation basically went away. Pressure-treated lumber is the same way. Industry used arsenic, which is a terribly hazardous material, copper, and chromium to impregnate wood to make it last longer. The issue was that these materials started to leach out of the wood and go into the water, if the wood was used in docks, go into the land, if it was used on decks, and there were concerns about whether kids playing on playgrounds using this wood could get hurt. So industry looked at it with government. They tandemed together, they studied it, and they realized that it was a problem. So government and industry together announced a voluntary cessation of using these products by the end of the year.

**H:** Kurtis B. Reeg is a partner at the law firm of Leritz, Plunkert & Bruning in St. Louis, Missouri.