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## Books Received

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## BOOKS RECEIVED

1) *Proof of Causation and Damages in Toxic Chemical, Hazardous Waste, and Drug Cases 1987*, Litigation Course Handbook Series Number 341, by Sheila L. Birnbaum and David R. Gross. Practising Law Institute, New York, 1987. Pp. 454. \$45.00 (softcover).

This state of the art handbook was prepared for a two-day seminar of the same name which was held in 1987. The handbook can be utilized with accompanying video and audio cassettes. It is a handy reference source of information on the most litigated elements of personal injury tort actions, and is useful to both plaintiff and defense attorneys. Contents include: (1) Role of Expert Testimony and Novel Scientific Evidence in Proof of Causation, by Hon. Jack B. Weinstein; (2) Toward a Functional Approach for Managing Complex Litigation, by Francis E. McGovern; (3) Eight Families Sue W. R. Grace and Beatrice Foods for Poisoning City Wells with Solvents, and Causing Leukemia, Disease, and Death by Jan Richard Schlichtmann; (4) *Higgins v. Aerojet Corporation: Successfully Defending a Toxic Tort Case*, by John E. Munter and Scott P. DeVries; (5) The Role of the Physician, and Differential Diagnoses in Proving or Disproving Causation, by Susan M. Daum; (6) Damages in Toxic Chemical, Hazardous Waste, and Drug Cases, by Richard A. Seltzer; and (7) The Application of Risk Assessment in Evaluating the Risk of Harm from Exposure to Potentially Harmful Substances, by Kenny S. Crump.

Judge Weinstein's paper presents an overview of the Federal Rules adopted in 1975 which focus on expert witnesses during trial and discusses litigation problems which have occurred under the new rules. Mention is made of modifications which some courts have already instituted in their procedures

for toxic tort and medical malpractice cases. The national need for reform in the substantive law of torts, especially in medical malpractice and toxic tort litigation, is explained.

McGovern summarizes judicial management and alternative dispute resolution techniques for use in mass torts, such as asbestos personal injury cases. The cases reprinted here focus on new and controversial aspects of toxic tort litigation including enhanced risk of future injury, funded settlements for future medical surveillance, immune dysfunction, fear of cancer and the impact rule, and uncertainty and risk assessment. Special attention is given to causation-in-fact, damages, and risk assessment.

2) *Trends in Asbestos Litigation*, by Thomas E. Willging. Federal Judicial Center, Washington, D.C. 1987. Pp. 138. Free of charge (softcover). Write to: Information Services Office, Federal Judicial Center, 1520 H Street, N.W., Washington D.C. 20005. [Enclose a self-addressed mailing label and a written request].

This report prepared by the Research Division of the Federal Judicial Center is a comprehensive review of the complexities of the judicial administration of asbestos litigation. Asbestos litigation has unique characteristics which make the litigation both complex and unusual: large numbers of injured plaintiffs, localized concentration of cases, widespread use of a highly toxic product during an extended latency period, suppression of information regarding risk, clarity of general causation and lack of clarity of causation-in-fact, a wide range of severity of injuries, unique circumstances of each plaintiff, a large number of defendants, specialization of defense counsel, and development of particularized local rules. Historic and future trends are discussed. Comparison is made between the asbestos experience and future litigation based upon PCB and dioxin exposure, cigarette manufacturer liability, groundwater contamination, and radiation exposure. The language is clearly informative and non-adversarial.

3) *Land Use Regulation, The Impacts of Alternative Land Use Rights*, by Martin A. Garrett, Jr. Praeger Publishers, New York, 1987. Pp. 146. \$36.95 (hardcover); \$13.95 (softcover).

The purpose of this book is to incorporate into one volume an analysis of land use issues and their relationship to economics and public policy. The author is a professor of economics with an interest in regional and urban planning who serves on the James City County Planning Commission. He states that land use policymaking is interdisciplinary in nature and draws from the expertise of professionals in law, architecture, geography, political science, and urban planning — but rarely from economics.

The discussion focuses on recent land use planning strategies particularly in suburban communities experiencing growth pressures on their local governing bodies. The author describes conflicts of interest among citizens, the governing body and landlord-developers. He recommends a combination of free market and regulation to achieve optimal land use. The discussion describes and cites leading cases in the history of zoning, the takings issue, the changing attitude towards growth and development, the land use reform movement, exclusionary land use, the administration and regulation of state and community land use, and comprehensive plans. A theoretical model for optimal land use is proposed, and alternative forms of land use management are discussed. The author presents an overview of these various issues; there is no in-depth legal case analysis.

4) *Hazards: Technology and Fairness*, National Academy of Engineering Symposium Series on Technology and Social Priorities. National Academy Press, Washington, D.C. 1986. Pp. 225. \$22.50 (softcover).

This collection of papers resulted from a symposium which was held by the National Academy of Engineering, the Commission on Life Sciences, and the Environmental Studies Board of the National Research Council. The symposium brought academic, industrial, legal and public-sector professionals together to address the management of technological hazards. Hazards that arise from chronic, low-level exposures and high-consequence hazards which have a low probability of occurrence were major issues. Three major areas are covered: (1) management of low-level or low-probability hazards when scientific evidence of causation is, and will remain, uncertain; (2) equitable distribution of the costs and benefits of potentially hazardous technologies; and (3) management of technological hazards in the face of conflicting scientific, ethical, and constituency claims. In addition, the papers cover issues which cut across the three major topics. Issues discussed are: (1) the influence of the value system of the individual scientific expert on his technical judgments about risk, and the consequences for scientific credibility and regulatory policy; (2) the allocation of resources and cost-benefit analysis necessary for appropriate regulatory efforts in the face of scientific uncertainty; and (3) compensation to victims of hazardous technological facilities.