Tucker Ellis LLP

TRICHLOROETHYLENE LITIGATION

OVERVIEW

Trichloroethylene (TCE) is a colorless liquid commonly used in tool and automobile production as a solvent for metal parts, in the production of hydrofluorocarbon refrigerants, and in the textile processing and dry cleaning industries. TCE is also found in household products, including adhesives, paint and paint removers, spot removers, cleaning fluids, and varnishes.

Lawsuits allege that TCE causes multiple health-related injuries, including heart problems; liver damage; nausea and vomiting; eye, nose, and throat irritation; and neurological problems such as dizziness and headaches. High levels of exposure are claimed to cause cancer, including kidney and non-Hodgkin lymphoma, heart defects, and possibly Parkinson's disease. Short-term and long-term exposures are also claimed to affect a developing fetus. Both the U.S. Environmental Protection Agency (EPA) and the International Agency for Research on Cancer (IARC) have classified TCE as "carcinogenic to humans," and the National Toxicology Program (NTP) has classified it as a "known human carcinogen."

In March 2016, a federal court jury awarded $20.6 million to a 27-year-old Missouri woman who alleged that she developed multiple diseases, including autoimmune hepatitis, from TCE contamination. See *Jodelle L. Kirk v. Schaeffler Group USA Inc., et al.*, Case No. 3:13-cv-05032 in the U.S. District Court for the Western District of Missouri. In the lawsuit, she claimed that the ball bearing manufacturer illegally dumped approximately 40 tons of TCE per year between 1971 and 1982 around its plant in Joplin, Missouri, located near her childhood home.

In December 2016 and January 2017, the EPA published two proposed rules under the Toxic Substances Control Act (TSCA): one rule to ban the commercial use of TCE in vapor degreasing and the other rule to ban the use of TCE in commercial and consumer aerosol degreasing and as a spot cleaner in dry cleaning. These proposed rules were moved to the EPA's "long term action" agenda in December 2017, suggesting that the agency has no immediate plans to finalize them. The proposed rules seek to prohibit the manufacture, import, processing, distribution, and commercial use of TCE for these purposes. The EPA also proposed requiring manufacturers, processors, and distributors to provide notification of these bans throughout their supply chains and to maintain an increased number of records. These proposed rules were the result of serious health risks found during EPA's June 2014 TSCA Chemical Work Plan Chemical Risk Assessment for TCE, where the agency evaluated health risks to consumers and workers using TCE as a degreaser and dry cleaning workers using it to remove stains.

TCE exposure typically occurs from inhalation, contact, or consumption (of contaminated water or foods). TCE can enter the groundwater and surface water from industrial discharges or from the improper disposal of landfill waste, and it has been found in many drinking water supplies in the United States.

HOW TUCKER ELLIS CAN HELP

In addition to manufacturers and distributors of products containing TCE, employers using it in their production or operations are possible targets in litigation. The Tucker Ellis Mass Tort & Product Liability Group can assist clients with legal issues and help develop strategies to manage risks.

The Tucker Ellis Mass Tort & Product Liability Group represents product manufacturers in tens of thousands of cases filed in state and federal courts nationwide at both the trial and appellate levels. Our lawyers focus on the national, regional, and local defense of product liability cases involving industrial, commercial, and consumer products and toxic tort cases related to alleged exposure to naturally occurring substances such as asbestos, silica, coal mine dust, and talc, as well as welding fume, mold, and other claimed toxins.