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## **Trial lawyers pursue mass torts amid ailing economy**

by Chris Rizo

WASHINGTON (Legal Newsline)-Bad economic times for the nation's trial bar has plaintiffs' attorneys pursuing mass torts to get the most bang out of their buck.

Legal observers attest to a noticeable uptick in marketing by plaintiffs' attorneys seeking clients for lawsuits against deep-pocket sectors like the pharmaceutical industry and manufacturing.

Mark Behrens, a leading corporate defense lawyer and counsel to the American Tort Reform Association, said television ads for personal injury lawyers are flooding the nation's airwaves.

"They are running frequently and in new markets," Behrens said of the spots seeking people who believe they've suffered injury from a medication or an accident or have had exposure to asbestos.

### **Trial lawyers seek mesothelioma cases**

Nationally, the total number of asbestos-related mesothelioma cases remains relatively constant from year to year, while nonmalignant filings have decreased as a result of reforms and greater scrutiny from some jurisdictions, Behrens told Legal Newsline.

"Plaintiffs' lawyers are in a scramble to grab the available mesothelioma cases," he said. "In other words, the individual plaintiffs' firms not only want to make sure no bread is left on the table, they also want to be the ones to eat it rather than see it grabbed up by competitor firms."

Harlan Schillinger, vice president and director of marketing for Network Affiliates, the nation's largest lawyer advertising agency, said plaintiffs' lawyers are spending significantly more so far this year on marketing and advertising.

Network Affiliates' clients, which include such big name firms as Jacoby & Meyers, The Cochran Firm and the offices of Fleming & Associates of Houston, are spending about 11 percent more than they did last year on TV spots, Schillinger said.

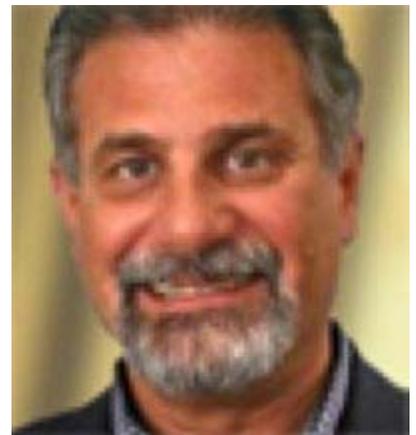
"The group is not necessarily a litigious group. They fight their battles and there are a lot of battles on the table right now," Schillinger told Legal Newsline in an earlier interview.

Ed Murnane, the new chairman of the American Tort Reform Association, said it's clear law firms are spending big bucks to woo new clients. He said the ads are identical in tone and objective.

"Most of the ads are very similar: they are trial lawyers who are trying to promise



Mark Behrens



Harlan Schillinger

or suggest that there big dollars to be won by victims or supposed victims of asbestos or mesothelioma," Murnane said. "It just shows that trial lawyers are being very, very aggressive and they are going to continue to be aggressive."

Murnane, who is also president of the Illinois Civil Justice League, added that the increase in attorney advertising is probably brought on some by the souring national economy.

"Trial lawyers are experiencing a difficult economy, just as everyone is, and they are looking for new business," Murnane said.

### **Bad economy brings securities class actions**

Perhaps more than other types of litigation, **Richard Samp of the Washington Legal Foundation**, said he expects securities class action filings to soar amid the Wall Street meltdown.

"I would be shocked if there was not a large spike in the next 12 months as a result of things that have happened to the housing bubble," said Samp, the organization's chief counsel. "Certainly, all of the major banks and security houses are being sued already in a number of well-publicized suits."

To help generate cases, Samp said some large plaintiffs' firms use pools of investors who put small amounts of money into many companies so they can file class actions in the names of named clients in the hopes of winning large payouts, as was the case at the firm formerly known as Milberg Weiss LLP.

Prosecutors said -- and judges agreed -- the firm raked in \$251 million in fees from cases in which the firm's lawyers illegally paid kickbacks to clients to file lawsuits claiming they suffered a loss because corporate executives misled them about a company's financial condition. Officials said the scheme lasted for more than 25 years.

Among corporations targeted by the law firm were AT&T Inc., Lucent, WorldCom, Microsoft Corp. and Prudential Insurance.

"It's well known that many firms keep a stable of clients who own small numbers of shares in lots of companies, and that is what got all of the leaders of Milberg Weiss thrown in jail because they were in a sense bribing stockholders to serve as their clients," Samp said.

Samp said already there have been "plenty" of securities class actions filed so far this year.

"The number was up for the year 2008 over 2007, but I suspect that the numbers for 2009 will show a significant increase over 2008," he said.

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Ed Murnane



Richard Samp