

Medical-Literature Author Failed To Check His Facts

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By Nathan A. Schachtman
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Dear Editor:

In sowing distrust of the medical literature, Bruce Stern's opinion piece, "Beware of the Literature: Investigation of Adversary's Treatises is Now Required" [Personal Injury Law, Sept. 22], relies on a distorted and one-sided article written for Mother Jones magazine about welding fume litigation. Like the reporter of the original piece, Stern, a personal injury lawyer, blindly accepts mischaracterizations by a group of plaintiffs' lawyers who have sued the welding industry — and have been largely unsuccessful.

Contrary to Mr. Stern's statements, the welding industry did not spend \$12.5 million on studies. The industry spent about \$4.5 million to sponsor scientific studies, which were conducted and interpreted without any control by the defendants. These studies were conducted by some of the most prominent experts in their fields, many of whom have provided sworn testimony about the integrity of their data and conclusions.

Additionally, and importantly, the findings of these "industry funded" studies are completely consistent with findings of studies funded by the European Union, the Swedish government, the Mayo Clinic, and other organizations that have no involvement in this litigation. The source of the scientists' funding, which was disclosed in the published studies, does not undermine the irrefutable results of their work: There is no statistically significant increased risk of neurological disease from welding.

In fact, it is plaintiffs — not defendants — who spent money on junk science to support their claims in welding litigation. The plaintiffs' attorneys commissioned shoddy, five-minute "medical" screenings of thousands of welders, pronounced large numbers of them ill, and then announced that

they had discovered an epidemic that would bring the welding industry down. Suddenly faced with thousands of lawsuits, the companies needed to defend themselves, and so they sponsored studies to refute plaintiffs' allegations and hired experts to testify on their behalf at trial.

Apparently, Mr. Stern believes that plaintiffs' lawyers should be allowed to malign an industry, but that the defendants should not be allowed to clear their name. Ironically, one of plaintiffs' themes in their trial presentations, almost all of which have resulted in defense verdicts, is that defendants did not spend enough money on research.

Notably, other journalists have written stories in far more reputable periodicals, such as the Bloomberg News Wire Service, the Wall Street Journal and Forbes magazine, that have exposed plaintiffs' suits as meritless, and in some cases, even fraudulent. Defendants have prevailed in 20 out of 23 welding-fume trials in the last six years and plaintiffs have been forced to drop five cases due to fraud. In addition, when the judge responsible for the federal welding fume proceeding lifted the lid on plaintiffs' claims and required them to obtain real medical diagnoses of their conditions, more than half of the cases in the litigation — thousands of claims — evaporated.

These telling facts about the welding fume litigation are nowhere to be found in Stern's editorial or in the Mother Jones article upon which he relies. The caution about medical literature should be doubled when reading editorials in legal periodicals.

Schachtman, of Phillips Lytle, represents the welding industry.