

PUBLIC JUSTICE E-LERT

AMERICA'S PUBLIC INTEREST LAW FIRM

December 1, 2011

BASF used to run one of those commercials that stuck in your head: "At B-A-S-F, we don't make a lot of the products you buy; we make a lot of the products you buy *better*."

Remember it? Well, we beg to differ.

For decades, according to a class action filed in New Jersey federal court, BASF and its corporate law firm withheld or destroyed evidence showing that the company's talc contained asbestos. They also lied about it to courts and victims. And they've been doing these things for more than 25 years.



As a result, asbestos victims exposed to BASF's talc either did not pursue injury claims against the company or had their claims dismissed by the courts. The class action, *Williams v. BASF Catalyst, LLC*, seeks to hold BASF, its law firm -- Cahill Gordon & Reindel, LLP -- and others allegedly involved in this egregious course of conduct accountable. The lawsuit was brought on behalf of [victims of asbestos-related diseases and their families](#) nationwide.

Incredibly, BASF and Cahill Gordon Reindel, LLP -- which have not denied the allegations -- are now insisting that, even if they lied to asbestos victims and the courts, they cannot be sued. [BASF](#) and [Cahill Gordon](#) have filed motions to dismiss based on a New Jersey "litigation privilege" that protects communications made "to achieve the objects of litigation." They are arguing that the alleged lies and destruction and withholding of evidence is protected by the privilege because it was intended "to obtain in the asbestos cases favorable results, which is the ultimate goal of any litigation."

Yesterday, we filed an *amicus* brief in New Jersey federal court challenging this outrageous argument and explaining why the challenged conduct is not -- and should not be -- protected by law. As the New Jersey Supreme Court admonished just five years ago in *Loigman v. Township Committee of Township of Middletown*, "[s]eeking truthful, accurate, and non-tainted testimony . . . is the objective of every litigated case.

Our brief was written primarily by Michael Quirk of Williams Cuker Berezofsky in New Jersey. Public Justice Foundation Board Member Esther Berezofsky, also of Williams Cuker Berezofsky, Public Justice Goldberg Attorney Amy Radon, and I provided input.

To read our *amicus* brief, click [here](#). Let us all hope that justice will be done.

At this time of year I feel especially thankful for your support of our work. Please know that you play a vital role in helping us hold alleged wrongdoers like BASF -- which, by the way, had sales of nearly \$18 billion last year -- accountable in court.

Arthur Bryant

Executive Director

Public Justice and the
Public Justice Foundation