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TODAY'S NEWS

Third suit filed over lead levels

Action seeks \$6 million in health damages to child

By Gary Garton

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MIAMI, Okla. — A third lawsuit has been filed in Ottawa County District Court alleging health damage to a child with an elevated blood-lead level, and naming former mining companies and one chat distributor as defendants.

All of the suits seek millions of dollars in damages from companies with links to the area's lead mining history.

The first suit, filed in November, has been moved to federal court at Tulsa, and the mining companies have filed their responses to a suit filed in January.

The third suit was filed Tuesday on behalf of Christopher Carr, a minor child. His parents, William and Elizabeth Carr of Picher, are being represented by the same two Tulsa law firms that represent plaintiffs in the other two suits.

Trenton and Michelle Herd and their 9-year-old son, of Picher, are the plaintiffs in the suit filed in November. Trapper Reeves and his parents, Chester and Pamela Reeves, formerly of Picher and now of Galena, Kan., are the plaintiffs in the suit filed in January.

All the suits name Asarco Inc., Blue Tee Corp., Goldfields Mining, NL Industries Inc., Childress Royalty Co. and Doe Run Corp. as defendants.

The Herd suit also named chat marketers Ore & Mineral Recovery Inc. and RJJ Inc. as defendants.

The Reeves suit added Bingham Sand & Gravel of Treece, Kan., as a defendant.

The suit filed for the Carr family does not name Bingham, but it includes the Rialto Chat Farm distributor.

Brad Barron, with the Tulsa law firm of Richard Gibbons & Associates, said Thursday that the new suit alleges all of the points set out in the first two suits.

They claim negligence and creation of public and private nuisances by the companies. They allege the companies did not take precautions to prevent lead poisoning of humans and the environment.

Each of the suits asks in excess of \$6 million in actual and punitive damages for adverse health effects, potential loss of earnings and possible lifelong disabilities because of the elevated lead levels in the blood of the children.

Barron on Thursday repeated his previous statements that he will not discuss the specific blood-lead levels of his clients because they are minors.

In a response filed in December to the Herd suit, RJJ Inc. and Ore & Mineral Recovery argued they

could not assert claims or defend themselves in the state court suit because their corporate charters, RJJ's in Oklahoma and OMR's in Nevada, have been revoked.

On Dec. 5, that case was moved to U.S. District Court at Tulsa with the agreement of all parties.

Responses were filed this week in the Reeves case on behalf of NL Industries, Doe Run Corp., Childress Royalty Co., Asarco Inc., and Bingham Sand & Gravel.

Various Tulsa law firms are handling the cases for the mining companies.

The documents say, in response to the majority of the suit claims, that the companies are "without information or knowledge sufficient to form a belief as to the truth of the allegations" and therefore deny them.

The companies assert the plaintiffs were "aware of all the facts, circumstances and conditions existing," and that they "assumed the risks" of living in the former mining area.

The Childress response adds, "If the plaintiffs have sustained any damages or injuries they were due to unavoidable circumstances and from causes beyond the control or fault of the defendant."

The responses all also contain phrases similar to the one used by Doe Run asserting that "the defendant and its predecessors conducted their operations in compliance with all applicable laws, regulations, policies and standards," and in accordance with customs of the industry and "state of the art methods."

The Herd lawsuit will be scheduled for proceedings by a magistrate at Tulsa. The other two suits will be heard in Ottawa County District Court.

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